Colorado Revised Statutes 2015

TITLE 33

PARKS AND WILDLIFE

WILDLIFE

ARTICLE 1

Wildlife - General Provisions

33-1-101. Legislative declaration. (1) It is the policy of the state of Colorado that the wildlife and their environment are to be protected, preserved, enhanced, and managed for the use, benefit, and enjoyment of the people of this state and its visitors. It is further declared to be the policy of this state that there shall be provided a comprehensive program designed to offer the greatest possible variety of wildlife-related recreational opportunity to the people of this state and its visitors and that, to carry out such program and policy, there shall be a continuous operation of planning, acquisition, and development of wildlife habitats and facilities for wildlife-related opportunities.

(2) All wildlife within this state not lawfully acquired and held by private ownership is declared to be the property of this state. Right, title, interest, acquisition, transfer, sale, importation, exportation, release, donation, or possession of wildlife is permitted only as provided in articles 1 to 6 of this title or in any rule of the parks and wildlife commission.

(3) In order to foster the welfare of the inhabitants of the state of Colorado, it is further declared to be the policy of this state to protect and encourage full development of absolute and conditional water rights created under state law and to develop and maximize the beneficial use of the waters to which Colorado and its citizens are entitled under interstate compacts.

(3.5) (a) The general assembly hereby finds, determines, and declares that it supports the recommendation of the Lower Arkansas river commission in its plan dated March 25, 1993, to protect and enhance fish and wildlife resources at the Great Plains Reservoirs, and further finds that a joint funding effort, which includes funds appropriated from the wildlife cash fund created in section 33-1-112 to carry out such recommendation, would further the public interest by establishing recreational opportunities in southeastern Colorado.

(b) The general assembly further declares that the joint funding effort described in paragraph (a) of this subsection (3.5) shall not be solely a division responsibility and that the

appropriation from the wildlife cash fund shall be used to maximize matching funds from other sources to ensure full implementation of the recommendation.

(4) The state shall utilize hunting, trapping, and fishing as the primary methods of effecting necessary wildlife harvests.

(5) The general assembly declares that it is the policy of the state to prosecute hunters who violate multiple provisions of this title for each violation that contains unique elements.

33-1-102. Definitions. As used in this title, unless the context otherwise requires:

(1) "Antler point" means a projection of an antler that is at least one inch long and longer than the width of the base of such projection.

(1.5) "Bag limit" means the maximum amount, expressed in numbers, of wildlife that may be lawfully taken, caught, killed, or possessed by a person during one day or other specified period of time.

(2) "Big game" means elk, white-tailed deer, mule deer, moose, rocky mountain bighorn sheep, desert bighorn sheep, rocky mountain goat, pronghorn antelope, black bear, mountain lion, and all species of large mammals that may be introduced or transplanted into this state for hunting or are classified as big game by the commission.

(2.5) Repealed.

(3) "Carcass" means the dead body of any wildlife or a portion thereof.

(4) "Carcass tag" or "tag" means that portion of the license or separate identification which is required by statute or by rule or regulation of the commission to be attached to a wildlife carcass as evidence of lawful possession.

(4.3) "Colorado wildlife officer" means an employee of the division of parks and wildlife, or any other person who is commissioned by the director to enforce the wildlife statutes and rules of the commission and all laws of the state of Colorado, who is recognized as a peace officer in section 16-2.5-116, C.R.S.

(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.

(5) "Commission" or "parks and wildlife commission" means the parks and wildlife commission created in section 33-9-101.

(6) "Commissioner" means a member of the parks and wildlife commission.

(6.4) "Computer-assisted remote hunting" means the use of a computer or any other device, equipment, or software to remotely control the aiming and discharge of a weapon, including, but not limited to, firearms or archery equipment, at wildlife while the person engaged in the action is not physically present with, or in the immediate vicinity of, the wildlife.

(6.5) "Computer-assisted remote hunting facilities" means real property and improvements on the property associated with computer-assisted remote hunting. "Computer-assisted remote hunting facilities" also includes, but is not limited to, hunting blinds, weapons, offices, and rooms, equipped to facilitate computer-assisted remote hunting.

(7) "Department" means the department of natural resources.

(8) "Director" means the director of the division of parks and wildlife.

(9) (Deleted by amendment, L. 2003, p. 1629, § 64, effective August 6, 2003.)

(10) "Division" means the division of parks and wildlife and its employees, and, when necessary, the term may be construed as referring to the parks and wildlife commission.

(11) "Ecosystem" means a system of living organisms and their environment, each influencing the existence of the other and both necessary for the maintenance of life.

(12) "Endangered species" means any species or subspecies of native wildlife whose prospects for survival or recruitment within this state are in jeopardy as determined by the commission.

(13) "Executive director" means the executive director of the department of natural resources.

(13.5) "Exotic aquatic species" means those species, subspecies, and hybrids of fish, mollusks, crustaceans, aquatic reptiles, and aquatic amphibians not originating naturally, either presently or historically, in Colorado and not currently found in the drainage in question, except those which have been classified as native wildlife by the commission.

(14) "Export" means to transport any wildlife, or part of wildlife, out of this state.

(15) "Falconry" means the sport of hunting or taking quarry with a trained raptor.

(16) "Fishing" means any effort made to take any fish, amphibian, crustacean, or mollusk.

(17) "Furbearers" means those species with fur having commercial value and which provide opportunities for sport harvest, including badger, gray fox, kit fox, swift fox, opossum, hognosed skunk, spotted skunk, striped skunk, beaver, marten, mink, muskrat, ringtail, long-tailed weasel, short-tailed weasel, coyote, bobcat, red fox, and raccoon and all species of furbearers that may be introduced or transplanted into this state for commercial fur value and are classified as furbearers by the commission.

(18) "Game amphibian" means those species or subspecies of the class Amphibia classified as game amphibians by the commission.

(19) "Game crustacean" means those species or subspecies of the class Crustacea classified as game crustaceans by the commission.

(20) "Game fish" means all species of fish which currently exist or may be introduced or transplanted into this state for sport or profit and which are classified as game fish by the commission.

(21) "Game management unit" means a geographic area designated by the commission for the management of wildlife.

(22) "Game mollusk" means those species or subspecies of the phylum Mollusca classified as game mollusks by the commission.

(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.

(24) "Harass" means to unlawfully endanger, worry, impede, annoy, pursue, disturb, molest, rally, concentrate, harry, chase, drive, herd, or torment wildlife.

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

(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.

(26) "Import" means to bring or introduce into or to attempt to bring or introduce into this state any native or nonnative or exotic 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.

(27.5) "Low-income senior" refers to an individual sixty-four years of age or older who shows proof of such fact to the division or license agent and who shows proof to the division or license agent in the form of a federal or state income tax return from the immediately preceding calendar year that the federal taxable income of any such individual is at or below one hundred percent of the official poverty line for an individual or a family, as appropriate to the applicant, defined by the federal office of management and budget based on federal bureau of the census data. If said tax return is not available, a return for the year immediately preceding such year shall suffice. The division shall, for purposes of this subsection (27.5), inform license agents of the most current official poverty line in effect. If a person's income is at a level where such person is not required to file an income tax return, such individual shall sign a statement under penalty of perjury in the second degree to such effect, which statement shall be prescribed by the division and kept as required by the division with the record of sale of any license pursuant to section 33-4-102 (1.4) (v). No such affidavit shall be required to be notarized.

(28) "Motor vehicle" means a self-propelled vehicle, or a vehicle drawn by a self-propelled vehicle, by which persons or property may be moved, carried, or transported from one place to another by land or air.

(28.5) "Native wildlife" means those species and subspecies of wildlife which have originated naturally, either presently or historically, in Colorado; those which have been introduced into the wild in Colorado by the division; and those which have been classified as native wildlife by the commission.

(29) "Nongame wildlife" means all native species and subspecies of wildlife which are not classified as game wildlife by rule or regulation of the commission.

(29.5) "Nonnative wildlife" or "exotic wildlife" means those species, subspecies, and hybrids of wildlife not originating naturally, either presently or historically, in Colorado, except those which have been introduced into the wild in Colorado by the division or classified as native wildlife by the commission.

(30) "Nonresident" means any person who is not a resident of this state.

(31) "Optimum carrying capacity" means that point at which a given habitat can support healthy populations of wildlife species, having regard to the total ecosystem, without diminishing the ability of the habitat to continue that function.

(32) "Peace officer" means a sheriff, undersheriff, deputy sheriff, police officer, Colorado state patrol officer, or town marshal; a district attorney, assistant district attorney, deputy district attorney, or special deputy district attorney; an authorized investigator of a district attorney; an

agent of the Colorado bureau of investigation; a Colorado wildlife officer or special wildlife officer; or a parks and recreation officer.

(33) "Person" means any individual, association, partnership, or public or private corporation, any municipal corporation, county, city, city and county, or other political subdivision of the state, or any other public or private organization of any character.

(34) "Possession" means either actual or constructive possession of or any control over the object referred to.

(35) "Possession limit" means the maximum amount, expressed in numbers, of wildlife which may be lawfully possessed by any one person at any particular time.

(36) "Public road" means the traveled portion and the shoulders on each side of any road maintained for public travel by a county, city, or city and county, the state, or the United States government and includes all structures within the limits of the right-of-way of any such road.

(37) "Raptor" means all birds that are members of the order of Falconiformes or Strigiformes and, specifically, but not by way of limitation, means falcons, hawks, owls, and eagles or such other birds classified as raptors by the commission.

(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 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 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 driver's license with 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 the person entered military service and 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 stationed or for how long or of the factors listed in paragraph (e) of this subsection (38), unless the member changes his or her home of record to some state other than Colorado or fails to comply with the requirements established by article 22 of title 39, C.R.S., and rules promulgated by the department of revenue concerning the filing of a Colorado income tax return.

(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 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 parent with whom the child resides the majority of the time pursuant to court order or legal guardian.

(e) Except as provided in paragraph (c), (d), or (d.5) of this subsection (38), a person is deemed, for the purposes of this title, to have terminated his or her Colorado residence if the person applies for, purchases, or accepts a resident hunting, fishing, or trapping license issued by another state or foreign country; registers to vote in another 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 the person's permanent residence, 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.

(40) "Sell" includes bartering, exchanging, trading, or giving or offering a gift and each such transaction made by any person whether as principal proprietor, agent, servant, or employee

with or without remuneration.

(41) "Small game" means: Game birds, including grouse, ptarmigan, pheasant, quail, partridge, wild turkey, wild ducks, wild geese, sora and Virginia rails, coot, sandhill cranes, snipe, mergansers, band-tailed pigeons, doves, and crow; game mammals, including cottontail rabbit, snowshoe hare, fox squirrel, pine squirrel, Abert's squirrel, jackrabbits, marmot, and prairie dogs; and all species of small mammals and birds that may be introduced or transplanted into this state for hunting or are classified as small game by the commission.

(42) "State wildlife area" means all lands and waters, excluding offices, warehouses, and fish hatcheries, held by the division in fee title or by lease, easement, or agreement for the benefit of wildlife populations or for wildlife-related recreation.

(43) "Take" means to acquire possession of wildlife; but such term shall not include the accidental wounding or killing of wildlife by a motor vehicle, vessel, or train.

(44) "Threatened species" means any species or subspecies of wildlife which, as determined by the commission, is not in immediate jeopardy of extinction but is vulnerable because it exists in such small numbers or is so extremely restricted throughout all or a significant portion of its range that it may become endangered.

(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.

(46) "Transport" means to ship, carry, convey, or transfer from one place to another and includes an offer to transport and the receipt or possession for transportation.

(47) "Trap" means any mechanical device, snare, deadfall, pit, or other device used for catching wildlife.

(48) "Trapping" means taking or attempting to take wildlife by the use of a trap.

(49) "Vessel" means every description of watercraft used or capable of being used as a means of transportation of persons or property on water.

(50) "Waters of the state" means any natural streams, reservoirs, and lakes within the territorial limits of the state of Colorado.

(51) "Wildlife" means wild vertebrates, mollusks, and crustaceans, whether alive or dead, including any part, product, egg, or offspring thereof, that exist as a species in a natural wild state in their place of origin, presently or historically, except those species determined to be domestic animals by rule or regulation by the commission and the state agricultural commission. Such determination within this statute shall not affect other statutes or court decisions determining injury to persons or damage to property which depend on the classification of animals by such statute or court decision as wild or domestic animals.

(52) "Wildlife sanctuary" means a place of refuge where a nonprofit entity, as defined in section 7-90-102 (40), C.R.S., provides care for abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced wildlife for their lifetime and, with respect to any wildlife owned by such entity, does not:

(a) Use the animal for any type of entertainment;

(b) Sell, trade, or barter the animal or the animal's body parts, except as authorized by rule promulgated by the commission; or

(c) Breed the animal.

33-1-103. Wildlife commission - wildlife division - enterprise status. (Repealed)

33-1-104. General duties of commission. (1) The commission is responsible for all wildlife management, for licensing requirements, and for the promulgation of rules, regulations, and orders concerning wildlife programs.

(2) The commission shall establish objectives within the state policy, as set forth in section 33-1-101, which will enable the division to develop, manage, and maintain sound programs of hunting, fishing, trapping, and other wildlife-related outdoor recreational activities. Such objectives shall employ a multiple-use concept of management.

(3) The commission shall report to the executive director at such times and on such matters as the executive director may require. Publications of the commission circulated in quantity outside the division shall be subject to the approval and control of the executive director.

(4) Whenever the commission receives a dollar amount certification from the board of county commissioners of an eligible county pursuant to part 3 of article 25 of title 30, C.R.S., it shall review such certification, determine the amount to be certified to the general assembly, and certify said amounts pursuant to part 3 of article 25 of title 30, C.R.S.

(5) The commission may coordinate with the United States secretary of the interior and the United States secretary of agriculture to develop wildlife conservation and management plans consistent with this title for federal lands pursuant to 16 U.S.C. sec. 530, 16 U.S.C. sec. 1604, and 43 U.S.C. sec. 1712.

33-1-105. Powers of commission. (1) The commission has power to:

(a) (I) Acquire by gift, transfer, devise, lease, purchase, or long-term operating agreement such land and water, or interest in land and water, as in the judgment of the commission may be necessary, suitable, or proper for wildlife purposes or for the preservation or conservation of wildlife. The term "interest in land and water", as used in this section, means any and all rights and interests in land, including but not limited to fee title interests, future interests, easements, covenants, and contractual rights. Every such interest in land and water held by the commission when properly recorded shall run with the land or water to which it pertains for the benefit of the citizens of this state and may be protected and enforced by the commission in the district court of the county in which the land or water, or any portion thereof, is located. Game cash funds shall not be expended for water development projects except in those projects specifically authorized by the commission. Whenever the commission purchases any fee title interest in land or water as authorized by this section, it shall follow the procedures established in section 33-1-105.5.

(II) Repealed.

(b) Lease, exchange, or sell any property, water, land, or interest in land or water, including oil, gas, and other organic and inorganic substances which now are or may become surplus or which, in the proper management of the division, the commission desires to lease,

exchange, or sell in accordance with the joint rule number 34 of the senate and house of representatives. All sales of property, water, or lands shall be at public sale, and the commission has the right to reject any or all bids. As used in this paragraph (b), "exchange" means the transferring of property, water, land, or interest in land or water to another person in consideration for the transfer to the commission of other property, water, land, or interest in land or water, or cash, or any combination thereof; except that any cash received may not exceed fifty percent of the total value of the consideration. A transaction otherwise qualifying as an exchange shall not be deemed a sale merely because dollar values have been assigned to any property, water, land, or interest in land or water, for the purpose of ensuring that the commission will receive adequate compensation.

(c) Construct or otherwise establish public facilities and conveniences at any site or on any land in which the commission holds an interest and operate and maintain all such lands, facilities, and conveniences and provide services with respect thereto, and, when appropriate, make reasonable fees or charges for their use or enter into contracts for their maintenance or operation;

(d) Capture, provide for propagation of, transport, buy, sell, or exchange any species of wildlife needed for the purpose of stocking any of the lands or waters of this state;

(e) Enter into cooperative agreements with state and other agencies, educational institutions, municipalities, political subdivisions, corporations, clubs, landowners, associations, and individuals for the development and promotion of wildlife programs;

(f) (I) Receive and expend:

(A) Grants, gifts, and bequests, including federal moneys, made available for the purposes for which the commission is authorized; and

(B) Moneys made available to the division for the purpose of mitigating or offsetting adverse impacts of development on wildlife or wildlife habitat.

(II) The commission may provide matching funds when appropriate moneys are available. The commission shall provide such information as may be required in order to secure matching funds. The receipt and expenditure of money so received by the commission shall be reported to the executive director prior to the time of submission of the commission's annual budget requests.

(g) Enter into agreements with landowners for public hunting and fishing areas. Such agreements shall be negotiated by the commission or its authorized agent and shall provide that, if the landowner opens the land under his control to public hunting and fishing, the commission shall compensate him in an amount to be determined by the parties to the agreement. Under the agreement, the commission shall control public access to the land to prevent undue damage and to properly manage attendant wildlife populations. In no event shall the commission be liable for damages caused by the public other than those specified in the agreement.

(h) Provide for the destruction of any wildlife that poses a threat to public health, safety, or welfare;

(i) (I) Purchase, without using the bid process required by section 33-1-105.5, no more than two thousand acres of real property in Mesa county to build a multi-use shooting facility using moneys received from:

(A) Appropriated funds or nonappropriated grant moneys; or

(B) The federal government.

(II) The commission may contract with an independent contractor to build or operate the multi-use shooting facility authorized by this paragraph (i).

(III) The authority to purchase land under subparagraph (I) of this paragraph (i) expires on July 1, 2020, but this expiration does not affect the authority to build and operate or to contract to build and operate the multi-use shooting facility.

(2) Nothing in articles 1 to 6 of this title shall be construed as authorizing the commission to change any penalty prescribed by law for the violation of the provisions of articles 1 to 6 of this title or to change the amount of any license fee established by statute.

(3) (a) In the event that the commission plans to acquire the fee title to any real property or to acquire an easement for a period to exceed twenty-five years or at a cost to exceed one hundred thousand dollars or to enter into any lease agreement for the use of real property for a period to exceed twenty-five years or at a cost to exceed one hundred thousand dollars, or to sell or otherwise dispose of the fee title to any real property that has a market value in excess of one hundred thousand dollars, after the commission has approved the transaction but before it has completed the transaction, the commission shall submit a report to the capital development committee that outlines the anticipated use of the real property, the maintenance costs related to the property, the current value of the property, any conditions or limitations that may restrict the use of the property, and, in the event real property is acquired, the potential liability to the state that will result from the acquisition. The capital development committee shall review the reports submitted by the commission and make recommendations to the commission concerning the proposed land transaction within thirty days from the day on which the report is received. The commission shall not complete the transaction without considering the recommendations of the capital development committee, if the recommendations are made in a timely manner.

(b) Repealed.

33-1-105.5. Acquisition of property - procedure. (1) Except as provided in subsection (7) of this section, before the commission purchases any fee title interest in real property or any interest in water pursuant to section 33-1-105 (1) (a), it shall solicit bid proposals from all interested parties through the issuance of a request for proposals. Notice of such request for proposals shall be published in a newspaper of general circulation in the area where the commission plans to purchase the real property or interest in water.

(2) The notices required to be published pursuant to subsection (1) of this section shall include, but shall not be limited to, the following information:

(a) The approximate amount of money available to the commission for the type of property, interest in water, and habitat to be acquired;

(b) The nature of the wildlife habitat, other property, or interest in water desired, including the type or types of recreational opportunities, if any;

(c) The expected terms and conditions of the proposed acquisitions;

(d) The name, address, and phone number of a contact person employed by the division who shall be responsible for providing further information relating to the bid process to any

interested party;

(e) The deadlines for the submission of proposals and the address where proposals are to be sent; and

(f) Any other information deemed relevant by the commission.

(3) All proposals received by the commission shall be opened in a manner which is designed to prevent the disclosure of the offering price information contained in such proposals to competing bidders. Once a successful bidder has been selected and the acquisition is completed, the acquisition price and any other information deemed relevant by the commission shall be made available to the public.

(4) The commission, or its designee, may conduct discussions with any person who submits a proposal pursuant to this section for the purpose of clarifying whether the bidder is responsive to, or has a full understanding of, the solicitation requirements. The commission, or its designee, shall, at the request of any person making a proposal, unless it deems such proposal nonresponsive to the bid solicitation, assist such person in restructuring the proposal for the purpose of making the most attractive possible proposal. Bidders shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. The commission, or its designee, shall not disclose any information regarding the offering prices of other proposals during the course of such discussions. Bidders may submit revisions to proposals after the initial submission of the proposal, so long as such revisions are made prior to the date listed in the request for proposals for final submission of all proposals. The commission has the right to reject any and all bids.

(5) The commission shall evaluate the proposals based on the following criteria:

(a) Whether the ability of the commission to attain the goals established in the long-range plan of the division is enhanced by the acquisition of the property or interest in water;

(b) Whether the acquisition results in the establishment of additional wildlife habitat or in the potential for additional habitat through the use of habitat improvement methods;

(c) Whether the acquisition will improve access to other public lands;

(d) Whether additional wildlife-oriented recreational opportunities will result from the acquisition;

(e) The size and location of the property or interest in water, including the proximity of the property or interest in water to other property controlled by the division; and

(f) Such other criteria as the commission may establish.

(6) Prior to acceptance of proposals by the commission, said proposals must be reviewed by boards of commissioners of counties with lands or water included in the proposals.

(7) The commission may decide not to use the bid process established in this section when the property or interest in water being purchased is located in such proximity to other property controlled by the division that, in the judgment of the commission, the bid process would not be effective, or when the property or interest in water to be purchased is offered through foreclosure, receivership, or auction, or when the property or interest in water is to be purchased from another governmental entity. In the event that the bid process is not used, the purchase of any fee title interest in real property or any interest in water shall be approved by the

general assembly acting by bill.

(8) The commission may adopt such rules as are necessary to implement the acquisition process established in this section.

(9) The commission shall include in its annual report, which report shall be submitted to the capital development committee and to the agriculture, livestock, and natural resources committee of the house of representatives and the agriculture, natural resources, and energy committee of the senate, a listing of all acquisitions of real property or interests in water made pursuant to the provisions of this section. Such report shall describe all property and interests in water acquired since July 1, 1992, the acquisition cost of each such property or interest in water, and the appraised value of each such property or interest in water, and shall contain a description of all pending acquisitions of property and interests in water.

(10) Repealed.

33-1-106. Authority to regulate taking, possession, and use of wildlife - rules. (1) In order to provide an adequate, flexible, and coordinated statewide system of wildlife management and to maintain adequate and proper populations of wildlife species, the commission shall have authority in this state, by appropriate rules and regulations, to:

(a) Determine under what circumstances, when, in which localities, by what means, what sex of, and in what amounts and numbers the wildlife of this state may be taken and, further, to shorten, extend, or close seasons on any species of wildlife in any specific locality or the entire state when it finds after investigation that such action is necessary to assure maintenance of adequate populations of wildlife or to preserve the proper ecological balance of the environment. In no event, however, shall the commission adopt any regulation concerning the taking of black bears which is in conflict with the provisions of section 33-4-101.3.

(b) Provide for the disposal of the usable portions of wildlife confiscated, abandoned, or unclaimed at meat processing and storage facilities or by taxidermists or otherwise obtained under the provisions of articles 1 to 6 of this title;

(c) Control the exportation, importation, transportation, release, possession, sale, transfer, and donation of wildlife;

(d) Establish requirements for persons who are engaged in the business of buying, selling, processing, or otherwise handling wildlife for the keeping of records of such transactions and to make such records available for inspection;

(e) Provide for the issuance of and require persons to obtain licenses for the purpose of hunting, fishing, trapping, taking, or possession of wildlife in accordance with the provisions of articles 1 to 6 of this title and the rules and regulations adopted pursuant thereto;

(f) Authorize fishing without a license on a statewide basis for up to two days during the calendar year.

(2) The commission shall adopt rules which regulate the conduct of fishing contests in public waters of the state. Such rules may prohibit the holding of such a contest on specific waters and at specific times of the year, but such rules shall not unreasonably restrict persons conducting such a contest from charging an entry fee, awarding prizes to participants, or using

marked or tagged fish.

(3) (a) The state agricultural commission shall review the rules concerning captive wild ungulates submitted by the division and make recommendations to the parks and wildlife commission concerning the rules. The parks and wildlife commission shall not pass nor implement rules concerning captive wild ungulates without the approval of the state agricultural commission. If the parks and wildlife commission makes the possession of red deer unlawful in this state, the division shall compensate any person who owns or possesses any red deer on the effective date of the prohibition for the cost to replace such red deer with a legal elk of the same sex and comparable age.

(b) For purposes of this subsection (3), "captive wild ungulates" means wildlife which are ungulates lawfully acquired and held in confinement for breeding for agricultural purposes, production of meat, or other animal products; except that "captive wild ungulates" does not include wildlife held or used for the purpose of hunting or domestic elk or fallow deer held by persons licensed pursuant to section 35-41.5-104, C.R.S.

(c) Captive wild mammals and alternative livestock which have escaped from an owner's control may be removed from the wild by the division of parks and wildlife at the owner's expense, but not sooner than seventy-two hours after the division has given the owner or his designee actual notice of such escape, or the owner has notified the division of such escape. The amount the division of parks and wildlife may charge an owner shall be limited to actual costs incurred by the division to accomplish such removal, subject to further limitation by the following maximum caps:

(I) For native wildlife and for nonnative or exotic wildlife, one thousand dollars per animal not to exceed in the aggregate five thousand dollars per incident; and

(II) For prohibited species, no maximum cap per animal and no maximum cap per incident.

(4) (a) The commission may propose rules concerning:

(I) Hunting of alternative livestock as defined in section 35-41.5-102 (1), C.R.S.;

(II) Maintaining the purity of the native species of elk in the elk herds of Colorado by preventing the introduction of red deer or hybrid nonnative species, whether by the importation of untested live animals, gametes, eggs, sperm, or other genetic material, into Colorado. For purposes of this subparagraph (II), "native species of elk" includes those subspecies native to North America including cervus elaphus roosevelti, cervus elaphus nannodes, cervus elaphus nelsoni, cervus elaphus manitobensis, cervus elaphus canadensis, and cervus elaphus merriavi.

(III) Requirements that owners of alternative livestock have samples taken for the purpose of identifying individual animals;

(IV) Perimeter fences for alternative livestock farms, licensed pursuant to article 41.5 of title 35, C.R.S., to prevent ingress of big game wildlife and egress of alternative livestock.

(b) The state agricultural commission shall review any rules proposed by the commission and may make recommendations to the commission concerning such rules. The state agricultural commission shall approve all rules promulgated pursuant to this section prior to adoption by the commission.

(c) For purposes of carrying out the rules promulgated pursuant to this section, at any

reasonable time during regular business hours, the director or the director's designee shall have free and unimpeded access upon consent or upon obtaining an administrative search warrant to:

(I) All buildings, yards, pens, pastures, and other areas in which any alternative livestock is kept, handled, or transported; and

(II) All records required to be kept and to make copies of such records.

(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.

(6) The commission may adopt rules governing wildlife sanctuaries.

33-1-107. Regulation of areas under wildlife commission control. (1) The commission shall adopt such rules or regulations as may be reasonably necessary for the administration, protection, and maintenance of all land and water, or interests in land and water, acquired by the commission. The term "interests in land and water", as used in this section, means any and all rights and interests in land or water less than the full fee interest. Specifically, the commission shall have power to adopt rules or regulations upon the following matters:

(a) Maintenance, enhancement, or management of property, vegetation, wildlife, signs, markers, buildings or other structures, and any object of scientific value or interest in any such area;

(b) Restriction, limitation, or prohibition concerning the use of any such area either as to time, manner, permitted activities, or numbers of people;

(c) Necessary sanitation, health, and safety measures.

(2) Rules or regulations that apply to any particular area shall be published as provided in section 33-1-108 and shall be prominently posted at any such area. Absence of posting shall not, however, relieve any person from the responsibility to comply with applicable rules or regulations if such rules or regulations have been published as provided in section 33-1-108.

33-1-108. Rule-making procedure - judicial notice of rules. (1) Rule-making procedures shall be as prescribed in article 4 of title 24, C.R.S., except as otherwise provided in articles 1 to 6 of this title. Notice of rules and regulations may also be given such other publicity as the commission may deem desirable.

(2) A certified copy, which may be certified by the director or his designee, of any rule, regulation, or order of the commission shall be prima facie evidence in any court of this state. A printed copy of any rule or regulation purporting or proved to have been adopted and published by the authority of the commission or as published in the code of Colorado regulations in accordance with the provisions of section 24-4-103, C.R.S., is presumptive evidence of such rule or regulation and of its adoption.

(3) All rules, regulations, and orders of the commission, lawfully adopted and in force on December 31, 1984, shall continue to be effective until revised, amended, repealed, or nullified, or until they have expired, pursuant to law.

33-1-109. Office of director of division created. (Repealed)

33-1-110. Duties of the director of the division. (1) The director is the head of the division under the direction and supervision of the commission and the executive director and has general supervisory control of and authority over all activities, functions, and employees of the division.

(2) Repealed.

(3) The director shall prepare such reports as the executive director shall require the commission or director to submit.

(4) With the approval of the commission, the director shall authorize such scientific and other studies as are necessary and shall collect, classify, and disseminate statistics, data, and other information which in his discretion will tend to accomplish the objectives of articles 1 to 6 of this title and the state policy set forth in section 33-1-101.

(5) The director shall appoint Colorado wildlife officers and may appoint special wildlife officers to serve without pay, who shall have the powers and authority designated by the director. A special wildlife officer commission shall not be issued until the applicant has submitted to the division an application setting forth his or her qualifications to act as such an officer. Such qualifications shall include a minimum of forty hours of continuing law enforcement education per calendar year. The director may revoke the special wildlife officer commission of any such person at his or her pleasure.

(6) The director and the executive director shall consult with the commission in the establishment of the division's budget and the expenditures of all moneys appropriated to the division by the general assembly.

(6.5) The director, following notification of the commission, shall authorize an expenditure necessary to pay a local governing body for expenses incurred pursuant to section 35-5.5-110 (3), C.R.S.

(6.7) The director shall certify to the state controller that commitment or payment vouchers submitted by local habitat partnership committees are consistent with distribution management plans and guidelines approved by the commission. Such certification is the only requirement necessary to authorize the state controller to disburse funds from the habitat partnership cash fund.

(7) (a) The director, with approval of the commission, shall appoint a committee of nine persons to act as the "habitat partnership council", referred to in this section as the "council". The council shall have statewide responsibility and authority.

(b) (I) The council shall consist of the following members: Two sports persons who purchase big game licenses on a regular basis in Colorado; two persons representing livestock growers in Colorado; one person from the United States department of agriculture forest service; one person from the United States department of the interior bureau of land management; one person from the Colorado state university range extension program; one person representing agricultural crop producers; and one person from the Colorado division of parks and wildlife. All persons on the council shall be residents of the state of Colorado.

(II) Members of the council who will represent livestock growers and agricultural crop

producers shall be chosen by the director from persons nominated by the local habitat partnership committees, pursuant to subparagraph (VI) of paragraph (d) of subsection (8) of this section.

(III) For the initial appointments to the council, the terms of the four members representing sports persons and livestock growers shall be two years for one member of each group and four years for the other member of each group, after which all appointments shall be for four years. The term lengths for the members representing the various agencies shall be at the discretion of the respective agencies. There shall be no limit on the number of terms a member may serve.

(c) The duties of the council are:

(I) To advise local habitat partnership committees;

(II) To assist in the dissemination of information concerning the habitat partnership program;

(III) To review draft plans for compliance with program guidelines established by the commission and to recommend appropriate action by the commission;

(IV) To monitor program effectiveness and to propose to the commission changes in guidelines and land acquisition planning and review as appropriate;

(V) To advise the director whether or not payment vouchers submitted by local habitat partnership committees are consistent with distribution management plans approved by the commission;

(VI) To report to the commission and to the senate agriculture, natural resources, and energy committee and the house of representatives agriculture, livestock, and natural resources committee pursuant to section 33-1-112 (8).

(d) (Deleted by amendment, L. 96, p. 1727, § 1, effective June 3, 1996.)

(8) (a) The habitat partnership program is hereby created to assist the division of parks and wildlife by working with private land managers, public land management agencies, sports persons, and other interested parties to reduce wildlife conflicts, particularly those associated with forage and fence issues, and to assist the division of parks and wildlife in meeting game management objectives through duties as deemed appropriate by the director.

(b) The director, with the approval of the commission, shall have the authority to appoint a "habitat partnership committee", referred to in this section as a "committee", in any area of the state where conflicts between wildlife and private land owners and managers engaged in the management of public and private land exist.

(c) A committee shall consist of the following members: One sports person who purchases big game licenses on a regular basis in Colorado; three persons representing livestock growers in the area of the state in which the committee is being established; one person from each of the federal agencies that has land management responsibilities in such area of the state; and one person from the Colorado division of parks and wildlife. All persons on any such committee shall be residents of the state of Colorado.

(d) The duties of a committee are the following:

(I) To develop big game distribution management plans to resolve rangeland forage, growing hay crop, harvested crop aftermath grazing, and fence conflicts subject to commission approval;

(II) To monitor program effectiveness and to propose to the council changes in guidelines and land acquisition planning and review as appropriate;

(III) To request for the committee, on an annual basis, funds from the council consistent with the distribution management plan developed by any such committee;

(IV) To expend funds allocated by the council or acquired from other sources as necessary to implement distribution management plans;

(V) To make an annual report of expenditures and accomplishments of the committee to the council by August 15 of each year;

(VI) To nominate a person to act as a representative of agricultural livestock growers or crop producers to the habitat partnership council for the area of the state where such committee is organized;

(VII) To reduce wildlife and land management conflicts as the conflicts relate to big game forage and fence issues and other management objectives.

(e) The committee shall be authorized to procure from land owners, land managers, or other providers, materials or services necessary for carrying out activities identified in the distribution management plans pursuant to subparagraph (IV) of paragraph (d) of this subsection (8); except that all such procurements shall be certified as within the scope of the activities and funding levels authorized in such distribution management plans before any such procurement may be authorized.

33-1-111. Hearings - administrative law judges. Every hearing provided for in articles 1 to 6 of this title to be conducted by the commission or the division shall, except as provided in sections 33-4-101 and 33-6-106, be conducted by such agency or an administrative law judge designated by such agency pursuant to part 10 of article 30 of title 24, C.R.S., subject to appropriations for such administrative law judges made to the department of personnel, and every hearing shall comply with the provisions of articles 1 to 6 of this title and the provisions of article 4 of title 24, C.R.S.

33-1-112. Funds - cost accounting - definition - repeal. (1) (a) Except as provided in subsections (7) and (8) of this section, sections 33-1-112.5 and 33-6-105, and in part 7 of article 22 of title 39, C.R.S., all moneys received from wildlife license fees, and all moneys from all other wildlife sources, and all interest earned on such moneys shall be deposited in the state treasury and credited to the wildlife cash fund, which fund is hereby created, and such moneys shall be utilized for expenditures authorized or contemplated by and not inconsistent with the provisions of articles 1 to 6 of this title for wildlife activities and functions and for the financing of impact assistance grants pursuant to part 3 of article 25 of title 30, C.R.S. All moneys so deposited in the wildlife cash fund shall remain in such fund to be used for the purposes set forth in the provisions of articles 1 to 6 of this title and shall not be deposited in or transferred to the general fund of the state of Colorado or any other fund.

(b) For the fiscal year commencing July 1, 2008, there shall be transferred one million two hundred fifty thousand dollars from the wildlife cash fund to the division of wildlife aquatic

nuisance species fund, created in section 33-10.5-108.

(2) There is hereby created a stores revolving fund in the amount of eight hundred thousand dollars, which amount shall be maintained to acquire stock for warehousing and distributing supplies to operating units of the division. The moneys in such fund shall under no circumstances be used for the payment of operating expenses but shall be maintained intact as a revolving fund of eight hundred thousand dollars, composed of the following assets: Cash, accounts receivable, and inventory supplies. The purpose of the fund is to provide better budgetary control, and nothing contained in this subsection (2) shall authorize the division to make any purchases or acquisitions in any manner except as provided by law.

(3) There is hereby created the vanpool program revolving account. Receipts from participants in vanpools operated by the division shall be deposited to said account and shall be used only to pay the monthly operating and maintenance costs of such vans which are attributable to the use of such motor vehicles in carrying persons to and from work and to pay that portion of the purchase cost of replacement motor vehicles which is attributable to the use of the motor vehicles in carrying persons to and from work.

(3.5) (a) There is hereby created the wildlife management public education fund. Moneys in such fund shall consist of the surcharge authorized by section 33-4-102 (8.5), such moneys as the general assembly allocates to the fund, and moneys collected from gifts, donations, contributions, bequests, grants, and funds or reimbursements made from other sources to the wildlife management public education advisory council created in section 33-4-120.

(b) Moneys in the wildlife management public education fund shall be subject to annual appropriation and shall be used by the wildlife management public education advisory council for carrying out its duties as set forth in section 33-4-120, including, but not limited to, the reasonable and necessary expenses incurred by council members in fulfilling their duties, as approved by the director.

(c) All receipts and interest derived from the investment of moneys in the wildlife management public education fund shall be credited to such fund.

(4) The director of the division, with the consent and approval of the executive director, is authorized and directed to establish an adequate system of accounting which shall provide accurate and timely records of:

(a) All moneys received and from what sources;

(b) All moneys expended and for what purposes;

(c) All licenses that are issued, numbering each type separately.

(5) In his annual budget request to the governor, the executive director shall clearly show the allocations of funds used for wildlife purposes among operations, land acquisition, and capital construction and for any other purposes.

(6) The cost of nongame programs established under articles 1 to 6 of this title shall be borne by the general fund, the nongame and endangered wildlife cash fund, the wildlife cash fund, and any other sources deemed appropriate by the general assembly.

(7) (a) (I) (A) There is hereby created in the state treasury the wildlife for future generations trust fund. The fund consists of moneys appropriated to the fund by the general assembly, moneys received from energy or mineral royalties or leases of energy or mineral rights on wildlife properties, and gifts, grants, and donations.

(B) For purposes of this subparagraph (I), "wildlife properties" means state wildlife areas and any other wildlife properties in which the division owns mineral interests.

(C) No less than fifty percent of the total moneys deposited in the fund other than interest shall be accrued and maintained intact, and the remaining balance of the moneys deposited into the fund may be expended subject to appropriation by the general assembly; except that the interest earned on moneys in the fund is continuously appropriated and may be expended on such property operation and maintenance and other wildlife projects and programs as the commission deems appropriate.

(II) The fund is under the control of and administered by the commission. The controller shall authorize disbursements from the fund as directed by the commission on receipt of a voucher from the commission stating that the disbursement is in accordance with this subsection (7).

(III) The commission shall submit an annual report of the moneys expended from the fund and matters accomplished by the expenditures from the preceding fiscal year to the senate agriculture, natural resources, and energy committee and the house of representatives agriculture, livestock, and natural resources committee, or their successor committees, by the convening date of each regular session of the general assembly in accordance with section 24-1-136 (9), C.R.S. The commission shall also submit to these committees a report on moneys proposed to be expended from the fund and the matters to be accomplished by the expenditures in the upcoming fiscal year.

(IV) All moneys and interest in the fund remain in the fund to be used for the purposes set forth in this subsection (7) and shall not be deposited in or transferred to the general fund or any other fund.

(b) There is hereby created a wildlife habitat account in the wildlife for future generations trust fund, created in paragraph (a) of this subsection (7). The state treasurer shall deduct five million dollars from the wildlife cash fund, created in subsection (1) of this section, and transfer such sum to the wildlife habitat account. The interest earned on such five million dollars shall be continuously appropriated and shall be used solely for operation and maintenance of properties, leases, and easements owned by the division.

(8) (a) There is hereby created in the state treasury the habitat partnership cash fund. The moneys in the habitat partnership cash fund shall consist of those moneys annually transferred from the wildlife cash fund in accordance with paragraph (e) of this subsection (8) for the partnership program and any gifts, grants, donations, and reimbursements made to the program from other sources. The moneys in the fund shall be used in accordance with the duties of the habitat partnership council as specified in section 33-1-110 (7) and (8), including, but not limited to, reasonable and necessary expenses incurred by council members in the fulfillment of their duties, as approved by the director. All interest derived from the investment of moneys in the habitat partnership cash fund shall be credited to the fund. Any balance remaining in the fund at the end of any fiscal year shall remain in the fund subject to the limitations provided in paragraph (e) of this subsection (8).

(b) The council shall submit an annual report to the commission, the senate and house agriculture committees, and the executive director of the department of natural resources specifically stating the items for which it has expended moneys from the fund and the purpose of

such items.

(c) If the council ceases to exist, all moneys in the habitat partnership cash fund shall revert to the wildlife cash fund.

(d) (Deleted by amendment, L. 96, p. 1729, § 2, effective June 3, 1996.)

(e) (I) On July 1, 2002, and each year thereafter, there shall be transferred from the wildlife cash fund to the habitat partnership cash fund an amount equal to five percent of the net sales of big game licenses used in the geographic areas represented by local habitat partnership committees from the previous calendar year.

(II) All moneys in the habitat partnership cash fund shall be continuously appropriated to the division of parks and wildlife for the purpose of funding the habitat partnership program.

(III) Any balance in the habitat partnership cash fund at the end of the fiscal year shall not exceed the total amount of the wildlife cash fund transfer from the beginning of that fiscal year. Any excess moneys shall revert to the wildlife cash fund.

(IV) This paragraph (e) is repealed, effective July 1, 2023.

33-1-112.5. Search and rescue fund. (1) There is hereby created in the state treasury a search and rescue fund. Such fund is established to assist any agency or political subdivision of the state of Colorado for costs incurred in search and rescue activities involving persons holding hunting or fishing licenses, vessel, snowmobile, or off-highway vehicle registrations, or a Colorado outdoor recreation search and rescue card. Reimbursable costs are limited to actual operational expenses. Reimbursable costs shall not include salaries paid to persons permanently employed by the agency or political subdivision.

(2) (a) A surcharge of twenty-five cents shall be assessed on each license listed in section 33-4-102 (1) and (1.4) that is sold by the division or one of its license agents pursuant to section 33-4-101. Receipts and interest from the surcharge shall be deposited in the search and rescue fund created in subsection (1) of this section.

(b) A surcharge of twenty-five cents shall be assessed on each vessel, each snowmobile, and each off-highway vehicle registration that is sold by the division or one of its agents pursuant to section 33-13-103, 33-14-102, or 33-14.5-102. Receipts and interest from the surcharge shall be deposited in the search and rescue fund created in subsection (1) of this section. To coincide with annual registration renewal schedules, the surcharge shall be assessed on an annual basis beginning on October 1, 1992, for snowmobile registrations, January 1, 1993, for vessel registrations, and April 1, 1993, for off-highway vehicle registrations.

(c) (I) The general assembly hereby creates the Colorado outdoor recreation search and rescue card program. The department of local affairs shall make a Colorado outdoor recreation search and rescue card available to the public in accordance with this paragraph (c) to backpackers, hikers, mountain and trail bikers, cross country skiers, and other persons who use the Colorado back country for recreation. The department of local affairs shall establish procedures for the licensing of vendors who sell the outdoor recreation search and rescue card, the printing of such cards, and the distribution of such cards to vendors for sale to the public.

(II) The Colorado outdoor recreation search and rescue card shall cost three dollars and shall be valid for one year from the date of purchase. The department shall charge vendors two dollars for each Colorado outdoor recreation search and rescue card, which shall be transmitted to the state treasurer, who shall credit the amount to the search and rescue fund created in subsection (1) of this section. The remaining one dollar shall be retained by the vendor as the vendor's fee.

(III) The department may issue a multi-year Colorado outdoor recreation search and rescue card that shall be valid for a period not to exceed five years. Such multi-year card may be offered at a reduced rate to vendors with a reduced vendor fee to reflect administrative cost savings and other considerations.

(IV) The general assembly finds and declares that the Colorado outdoor recreation search and rescue card program is a new program. The department of local affairs is therefore authorized to contract, pursuant to section 24-50-504 (2) (b), C.R.S., with a person, corporation, or entity for any elements of the administration of the program created by this paragraph (c).

(3) All agencies and political subdivisions of the state shall have the right to make a claim on the search and rescue fund for reimbursement of costs incurred in the performance of search and rescue activities involving those persons specified in subsection (1) of this section. Such claims shall be submitted to the department of local affairs for immediate consideration. Any reimbursement claims which have been certified by the sheriff of the county in which the search and rescue activity occurred shall be eligible for payment by the department of local affairs. The department of local affairs shall establish rules for the procedure through which claims shall be submitted and for payment of such claims.

(4) The search and rescue fund created in subsection (1) of this section shall be the sole source of funds for the reimbursement of costs incurred under this section in search and rescue activities involving those persons specified in subsection (1) of this section. The wildlife cash fund established in section 33-1-112 and the parks and outdoor recreation cash fund established in section 33-10-111 shall not be used for reimbursement of costs as provided in this section.

(5) The moneys in the search and rescue fund created in subsection (1) of this section shall be subject to annual appropriation by the general assembly for the direct and indirect costs of the administration of this section.

(6) At the close of any fiscal year, all of the moneys remaining in the search and rescue fund and appropriated for search and rescue expenses, after all approved claims and administrative costs have been paid, shall be divided among those counties that have applied to the department of local affairs for year-end grants or reimbursements from the search and rescue fund. The department of local affairs shall divide such moneys among the counties, first making payment for uncompensated searches and rescues of parents, siblings, spouses, children, or grandchildren of persons holding hunting or fishing licenses, vessel, snowmobile, or off-highway vehicle registrations, or the owner of a Colorado outdoor recreation search and rescue card and second making payment for search and rescue-related training and equipment, and for any other uncompensated searches. The department of local affairs shall establish operating procedures for applying for year-end grants or reimbursements from the moneys remaining in the search and rescue fund.

(7) and (8) (Deleted by amendment, L. 2001, p. 599, § 1, effective July 1, 2001.)

33-1-113. Expenses of employees. (1) In addition to their salaries, all employees of the division shall be reimbursed for all actual and necessary expenses incurred by them in the discharge of their official duties.

(2) In addition to the compensation paid employees of the division and in addition to reimbursement for expenses as provided in subsection (1) of this section, each employee of the division who is vested with the rights and powers of a Colorado wildlife officer, including and limited to area wildlife managers and district wildlife managers, shall, because of the number of hours and the extraordinary service performed by such employees and the requirement of purchasing necessary uniform items, be further reimbursed for maintenance and ordinary expenses incurred in the performance of their duties in such amount as shall be determined by the commission, but the amount authorized under this subsection (2) for any such employee of the division shall not exceed the sum of fifty dollars per month.

33-1-114. Conservation magazine - revenue - Colorado outdoors magazine revolving fund. (1) The division is authorized to distribute a conservation magazine and associated informational products. The revenue derived therefrom shall be deposited in the state treasury and credited to the Colorado outdoors magazine revolving fund, which fund is hereby created. The magazine, subject to the approval of the executive director, shall be issued in accordance with the provisions of section 24-1-136, C.R.S. Funds necessary for the publication and distribution of such magazine and associated products shall be expended from the revolving fund, and additional funds, if necessary, will be included in the division's annual budget of wildlife cash funds. Such conservation magazine and associated informational products may be sold by the division or by any person designated by such division pursuant to contract. Any surplus in the revolving fund in excess of one hundred thousand dollars shall revert to the wildlife cash fund at the close of each fiscal year.

(2) If a private business manufactures and produces for sale a product that is available on the commercial market and the division is not currently producing such product, such product, or one substantially similar, shall not be produced or offered for sale by the division for so long as such product remains available from a private business.

33-1-115. Migratory birds - possession of raptors - reciprocal agreements. (1) The open season for all migratory game birds in the state of Colorado shall be the same as that fixed, or as may be fixed, under the administrative provisions of the federal "Migratory Bird Treaty Act", secs. 703 to 711 of title 16, U.S.C., as amended. Any change made by the United States department of the interior, fish and wildlife service, or any new ruling made by the secretary of the interior under said act which is applicable to the state of Colorado shall be in effect in the state of Colorado and shall be enforced by the division. The term "migratory birds" includes birds defined as such under the administrative provisions of said "Migratory Bird Treaty Act" and regulations adopted pursuant to the provisions of said act.

(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 of this state conform to or be more stringent than the provisions of the "Migratory Bird Treaty Act", as amended, and the "Endangered Species Act of 1973", as amended. These rules 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) Repealed.

33-1-116. Powers of director of United States fish and wildlife service. The director of the United States fish and wildlife service and his duly authorized agents have the right within this state to conduct fish hatching and fish culture activities and all other operations connected therewith that the said director may consider necessary and proper. Nothing in sections 33-1-116 to 33-1-119 shall be construed as permitting or granting to the said director or his duly authorized agents any jurisdiction over or the right to interfere with the activities or facilities of the division, nor shall anything in said sections be construed as contravening any of the laws of this state relating to public health, pollution, or water rights.

33-1-117. Assent of state to Pittman-Robertson act. The state of Colorado through the division assents to the provisions of the act of congress entitled "An Act to provide that the United States shall aid the states in wildlife restoration projects, and for other purposes.", approved September 2, 1937, and as amended. The division is authorized to perform such acts as may be necessary to conduct and establish cooperative wildlife restoration projects, as defined in such act, in compliance with such act and the rules and regulations promulgated by the secretary of the interior thereunder. No moneys or funds accruing to the division pursuant to such act shall be used for any purpose other than for such projects and the administration of the division, but the division may pay into the general fund as a part of its administrative costs a reasonable rental or service charge, as it may determine, for office quarters and auditing, bookkeeping, and like services furnished to the division by the state. All moneys now in the wildlife cash fund, or accrued or accruing to or received or receivable by the division, pursuant to such act shall be

appropriated to pay for the administrative expense of such division for the protection, preservation, restoration, and control of wildlife of the state and to cover expenses in enforcing the wildlife laws of the state. Such moneys are to be expended upon a voucher approved by the director or an employee of the department authorized by the executive director and a warrant drawn by the controller.

33-1-118. Assent to Dingell-Johnson act. The state of Colorado through the division assents to the provisions of the act of congress entitled "An Act to provide that the United States shall aid the states in fish restoration and management projects, and for other purposes.", approved August 9, 1950, and as amended. The division is authorized and directed to perform such acts as may be necessary to conduct and establish cooperative fish restoration and management projects as defined in and in compliance with such act of congress and the rules and regulations promulgated by the secretary of the interior thereunder. No moneys or funds accruing to the division as a result of compliance with such act shall be used for any purpose other than for such projects and the administration of such division.

33-1-119. Federal aid projects income fund. There is hereby created a fund designated as the federal aid projects income fund to which shall be deposited certain revenues and earnings derived from properties purchased and operated jointly by the United States government and the state of Colorado under the provisions of sections 33-1-116 to 33-1-119, and the provisions of the acts of congress referred to in this article, and the rules and regulations of the United States department of the interior. Such revenues and earnings so deposited shall be limited to those specific revenues and earnings to which each has a right under the provisions of cooperative agreements establishing such rights. All moneys deposited under the provisions of this section are specifically appropriated for the purposes for which such moneys may accrue.

33-1-120. Limitation on division and commission authority. (1) Neither the commission nor the division shall enter into any mitigation agreements with any agency of the federal government relating to the transfer or exchange of land or water condemned by the federal government without the express consent of the general assembly.

(2) The provisions of subsection (1) of this section shall not be construed to prevent the commission or the division from entering into common agreements with a federal agency pertaining to the stocking of fish or management of other wildlife on federally owned lands.

(3) The programs of the commission and division, including the listing of threatened and endangered species, shall not be utilized by the commission or division to supersede, abrogate, or impair any water right. For the purposes of this subsection (3), "impair" means requiring water users to forego water to which they are entitled under a water right.

33-1-120.5. Oversight of the division - target dates for implementation of

management review recommendations. (1) As used in this section, unless the context otherwise requires, "management review recommendations" means the recommendations made by Deloitte Touche LLP in the management review final report dated June 5, 1995.

(2) There is hereby established a deadline of no later than January 1, 1998, for the division to implement the management review recommendations.

(3) The director shall:

(a) Establish a schedule for the implementation of the management review recommendations;

(b) Repealed.

(c) Make decisions concerning the implementation of or departure from review recommendations in conjunction with the executive director of the department of natural resources and the commission.

(4) The director shall have the authority to reimburse or compensate employees relocated due to the implementation of the management review in the following manner:

(a) (I) The cost of all reasonable and necessary moving expenses incurred by an employee for the packing and unpacking, insurance, transportation, storage in transit, and installation of household effects shall be reimbursed.

(II) Notwithstanding subparagraph (I) of this paragraph (a), no reimbursement shall be paid for expenses incurred for insurance, transportation, or storage in transit to the extent such expenses cover a period longer than sixty days, nor shall reimbursement be paid for expenses incurred for household effects exceeding eighteen thousand pounds weight.

(b) Reimbursement is authorized for expenses charged by commercial business establishments for renting trailers or trucks for the purpose of moving household effects and for towing house trailers containing the household effects of employees. If such expenses exceed one thousand dollars, the claim therefor shall be accompanied by two competitive bids. Reimbursement shall be made at the rate proposed in the lowest bid. Any employee who performs his or her own packing and moving shall be reimbursed at the rate of fifty percent of the lowest commercial moving bid, not to exceed two thousand five hundred dollars.

(c) When the director requires an employee to relocate due to the implementation of the management review, such employee shall receive a per diem allowance for not more than sixty days for the necessary and reasonable expenses incurred in locating a primary residence at the new location. Such sixty-day period shall be tolled during any interruption caused by sick leave, vacation, or other authorized leave of absence or ordered travel.

(d) No reimbursement rate under this subsection (4) shall exceed a rate established by executive order. The per diem rate for dependent children between the ages of twelve and eighteen years and the spouse or partner of an employee shall not exceed seventy-five percent of the rate established by executive order for employees. The per diem rate for dependent children of an employee who are less than twelve years of age shall not exceed fifty percent of the rate established by executive order for employees.

33-1-121. Captive wildlife and alternative livestock board - created - duties - repeal. (Repealed)

33-1-122. Wildlife legislative interim committee. (Repealed)

33-1-123. Division - predator management plan - predator management advisory committee - creation - repeal. (Repealed)

33-1-124. Revenue bonds - authority - issuance - requirements - covenants. (1) (a) The commission may, by resolution that meets the requirements of subsection (2) of this section, authorize and issue revenue bonds in an amount not to exceed ten million dollars in the aggregate for expenses of the division. Such bonds may be issued only after approval by both houses of the general assembly acting either by bill or joint resolution and after approval by the governor in accordance with section 39 of article V of the state constitution. Such bonds shall be payable only from moneys allocated to the division for expenses of the division pursuant to section 33-1-112.

(b) All bonds issued by the commission shall provide that:

(I) No holder of any such bond may compel the state or any subdivision thereof to exercise its appropriation or taxing power; and

(II) The bond does not constitute a debt of the state and is payable only from the net revenues allocated to the division for expenses as designated in such bond.

(2) (a) Any resolution authorizing the issuance of bonds under the terms of this section shall state:

(I) The date of issuance of the bonds;

(II) A maturity date or dates during a period not to exceed thirty years from the date of issuance of the bonds;

(III) The interest rate or rates on, and the denomination or denominations of, the bonds; and

(IV) The medium of payment of the bonds and the place where the bonds will be paid.

(b) Any resolution authorizing the issuance of bonds under the terms of this section may:

(I) State that the bonds are to be issued in one or more series;

(II) State a rank or priority of the bonds; and

(III) Provide for redemption of the bonds prior to maturity, with or without premium.

(3) Any bonds issued pursuant to the terms of this section may be sold at public or private sale. If bonds are to be sold at a public sale, the commission shall advertise the sale in such manner as the commission deems appropriate. All bonds issued pursuant to the terms of this section shall be sold at a price not less than the par value thereof, together with all accrued interest to the date of delivery.

(4) Notwithstanding any provisions of law to the contrary, all bonds issued pursuant to this section are negotiable.

(5) (a) A resolution pertaining to issuance of bonds under this section may contain covenants as to:

(I) The purpose to which the proceeds of sale of the bonds may be applied and to the use and disposition thereof;

(II) Such matters as are customary in the issuance of revenue bonds including, without limitation, the issuance and lien position of other or additional bonds; and

(III) Books of account and the inspection and audit thereof.

(b) Any resolution made pursuant to the terms of this section shall be deemed a contract with the holders of the bonds, and the duties of the commission under such resolution shall be enforceable by any appropriate action in a court of competent jurisdiction.

(6) Bonds issued under this section and bearing the signatures of the commission in office on the date of the signing shall be deemed valid and binding obligations regardless of whether, prior to delivery and payment, any or all of the persons whose signatures appear thereon have ceased to be members of the commission.

(7) (a) Except as otherwise provided in the resolution authorizing the bonds, all bonds of the same issue under this section shall have a prior and paramount lien on the net revenues pledged therefor. The commission may provide for preferential security for any bonds, both principal and interest, to be issued under this section to the extent deemed feasible and desirable by such commission over any bonds that may be issued thereafter.

(b) Bonds of the same issue or series issued under this section shall be equally and ratably secured, without priority by reason of number, date, sale, execution, or delivery, by a lien on the net revenue pledged in accordance with the terms of the resolution authorizing the bonds.

ARTICLE 2

Nongame and Endangered Species Conservation

33-2-101. Short title. This article shall be known and may be cited as the "Nongame, Endangered, or Threatened Species Conservation Act".

33-2-102. Legislative declaration. The general assembly finds and declares that it is the policy of this state to manage all nongame wildlife, recognizing the private property rights of individual property owners, for human enjoyment and welfare, for scientific purposes, and to ensure their perpetuation as members of ecosystems; that species or subspecies of wildlife indigenous to this state which may be found to be endangered or threatened within the state should be accorded protection in order to maintain and enhance their numbers to the extent possible; that this state should assist in the protection of species or subspecies of wildlife which are deemed to be endangered or threatened elsewhere; and that adequate funding be made available to the division annually by appropriations from the general fund.

33-2-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Management" means the collection and application of biological information for the purposes of increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity of their habitat and maintaining such levels. The term includes the entire range of activities that constitute a modern, scientific resource program including, but not limited to, research, census, law enforcement, habitat acquisition and improvement, and education. Also included within the term, when and where appropriate, is the periodic or total protection of species or populations. "Management" may include artificial propagation to maintain threatened or endangered species populations, in concert with the exercise of water rights, and may also include restriction of stocking of species which are in competition with threatened or endangered species for the available habitat.

33-2-104. Nongame species - regulations. (1) The division shall conduct investigations on nongame wildlife in order to develop information relating to population, distribution, habitat needs, limiting factors, and other biological and ecological data to determine management measures necessary for their continued ability to sustain themselves successfully. On the basis of such determinations, the commission shall issue regulations and develop management programs designed to ensure the continued ability of nongame wildlife to perpetuate themselves successfully. Such regulations shall set forth species or subspecies of nongame wildlife which the commission deems in need of management pursuant to this section, giving their common and scientific names by species and, where necessary, by subspecies. The commission shall conduct ongoing investigations of nongame wildlife and may from time to time amend such regulations by adding or deleting therefrom species or subspecies of nongame wildlife.

(2) The commission shall by regulation establish limitations relating to the taking, possession, transportation, exportation, processing, sale or offering for sale, or shipment as may be deemed necessary to manage nongame wildlife.

(3) Except as provided in regulations issued by the commission, it is unlawful for any person to take, possess, transport, export, process, sell or offer for sale, or ship nongame wildlife deemed by the commission to be in need of management pursuant to this section. Subject to the same exception, it is also unlawful for any common or contract carrier to knowingly transport or receive for shipment nongame wildlife deemed by the commission to be in need of management pursuant to this section.

33-2-105. Endangered or threatened species. (1) On the basis of investigations of nongame wildlife provided for in section 33-2-104 and other available scientific and commercial data and after consultation with other state wildlife agencies, the Colorado water conservation board, the Colorado water and power development authority, water conservancy districts, and other water conservation districts of the state, and other water resource development agencies within the state, appropriate federal agencies, and other interested persons and organizations, the commission shall by regulation adopted pursuant to the procedures specified in sections 33-1-111

and 24-4-103, C.R.S., establish a list of those species and, where necessary, subspecies of wildlife indigenous to this state which are determined to be endangered or threatened within this state, giving their common and scientific names by species and, where necessary, by subspecies.

(2) The commission shall:

(a) Conduct, by July 1, 1986, and at least once every five years thereafter, a review of all species included in the state lists of endangered or threatened species established pursuant to subsection (1) of this section; and

(b) Determine on the basis of such review whether any such species should:

(I) Be removed from such list;

(II) Be changed in status from an endangered species to a threatened species; or

(III) Be changed in status from a threatened species to an endangered species.

(3) Except as otherwise provided in this article, it is unlawful for any person to take, possess, transport, export, process, sell or offer for sale, or ship and for any common or contract carrier to knowingly transport or receive for shipment any species or subspecies of wildlife appearing on the list of wildlife indigenous to this state determined to be endangered within the state pursuant to subsection (1) of this section.

(4) Except as otherwise provided in this article, it is unlawful for any person to take, possess, transport, export, process, sell or offer for sale, or ship and for any common or contract carrier to knowingly transport or receive for shipment any species or subspecies of wildlife appearing on the list of wildlife indigenous to this state determined to be threatened within the state pursuant to subsection (1) of this section.

33-2-105.5. Reintroduction of endangered species - legislative declaration. (1) The general assembly determines and declares that pursuant to the tenth amendment of the United States constitution, the state of Colorado has primacy over affairs that are of statewide concern and that matters concerning the environment, including the introduction or reintroduction of species that are currently not found or no longer found in this state is a statewide concern and should be conducted by the state through specific legislation. Reintroduction drives enormous land use questions and impacts property and water rights throughout Colorado.

(2) Before any species may be introduced or reintroduced into this state through action by any state or local government entity, the general assembly shall act by bill to specifically name such species and to specify the manner of introduction or reintroduction. The species to be introduced or reintroduced shall be:

(a) Not, or no longer, found in this state; and

(b) A candidate for listing or has been placed in the threatened or endangered species list pursuant to the federal "Endangered Species Act of 1973", 16 U.S.C. sec. 1531 et seq., as amended.

33-2-105.6. Reintroduction of the bonytail fish and the black-footed ferret - repeal. (1) In accordance with section 33-2-105.5, the general assembly hereby determines that the following species were not, as of April 18, 2000, found in the state and are listed under the

federal "Endangered Species Act of 1973", 16 U.S.C. sec. 1531 et seq., as amended, and therefore require approval by the general assembly prior to reintroduction by the division. The general assembly hereby approves the reintroduction of the following species into the state of Colorado:

(a) (I) The bonytail (*gila elegans*).

(II) The reintroduction of the bonytail shall be conducted consistent with the five-year stocking plan for endangered Colorado river fish species in Colorado, as approved by the Colorado river fishes recovery program biology committee on September 1, 1998, or as may be amended.

(b) (I) The black-footed ferret (*mustela nigripes*).

(II) The reintroduction of the black-footed ferret shall be conducted consistent with the approach described in the black-footed ferret cooperative management plan dated June 1995, developed by the division, the United States fish and wildlife service, and the United States bureau of land management, as modified by the availability of programmatic safe harbor agreements and enhancement-of-survival permits under 16 U.S.C. sec. 1539 (a) (1) (A). The reintroduction program must provide for regular updates for the local community on the status of the reintroduction and involve representatives of local government and affected interests in resolving issues that may arise during the reintroduction effort.

(2) Reintroduction of the species listed in subsection (1) of this section shall commence before December 31, 2002.

(3) The division shall submit annual reports, no later than January 15 of each year, to the house agriculture, livestock, and natural resources committee and the senate agriculture, natural resources, and energy committee on the status of the reintroduction of the bonytail and the black-footed ferret and the progress towards meeting the goals of the recovery program and the removal of the species from the federal "Endangered Species Act of 1973", 16 U.S.C. sec. 1531 et seq., as amended.

(4) In addition to the requirements of paragraph (b) of subsection (1) of this section, the reintroduction of the black-footed ferret shall be conducted in accordance with the following requirements:

(a) Each annual report prepared pursuant to subsection (3) of this section shall include an assessment evaluating whether the reintroduction of the black-footed ferret will impair any use of private land or beneficial use of water existing at the time of such reintroduction. If the assessment in any annual report concludes that any such use of land will be impaired by reintroduction of the black-footed ferret, the annual report shall also describe the reason for the impact and possible actions to reduce such impact.

(b) Any effort to reintroduce the black-footed ferret in any areas outside the experimental population boundaries described in the black-footed ferret cooperative management plan, as amended, dated June 1995, requires further legislative approval; except that a reintroduction of black-footed ferrets occurring on or after August 7, 2013, does not require further legislative approval if the reintroduction occurs on private land with landowner consent or on the land of a political subdivision of the state with the subdivision's approval and the reintroduction is in accordance with a programmatic safe harbor agreement and an enhancement-of-survival permit

under 16 U.S.C. sec. 1539 (a) (1) (A) that:

(I) Authorize the incidental take of black-footed ferrets that may result from the implementation of conservation actions, specific land uses, and the return of the landowner's real estate to baseline conditions; and

(II) Provide landowners with assurances that the federal government will not impose further land, water, or resource-use restrictions or additional commitments of land, water, or finances beyond that agreed to in the agreement.

(c) The state of Colorado shall ensure enforcement of the provisions of the black-footed ferret cooperative management plan dated June, 1995, up to and including litigation if the memorandum of understanding between Colorado and any federal agency implementing such plan is violated.

(d) If requested, the state of Colorado shall relocate any black-footed ferrets within the state of Colorado that were reintroduced pursuant to the black-footed ferret cooperative management plan dated June 1995, and that move outside of the experimental population boundaries described in the plan into the area originally designated in the plan.

(e) Nothing in the black-footed ferret cooperative management plan, as amended, dated June 1995, affects current prairie dog management efforts on private lands or on the land of a political subdivision of the state.

(f) (I) Until July 1, 2019, only three political subdivisions are authorized to reintroduce black-footed ferrets under this section. A political subdivision of the state shall not reintroduce black-footed ferrets under this section unless the division of parks and wildlife certifies that the authorization would not result in more than three political subdivisions of the state reintroducing black-footed ferrets under this section.

(II) The division shall administer this paragraph (f) by:

(A) Tracking the number of political subdivisions that are authorized to release black-footed ferrets under this section; and

(B) Denying certification to a political subdivision of the state if certification would result in more than three political subdivisions introducing black-footed ferrets under this section.

(III) This section is repealed, effective July 1, 2019.

33-2-105.7. Reintroduction of species - legislative declaration - report. (1) (a) As used in this section, unless the context otherwise requires, "introduction" means the release of a nonaquatic wildlife species that is currently not found or no longer found in this state into the environment of Colorado, and shall include reintroduction; except that introduction shall not include any nonaquatic wildlife species the actual initial release of which occurred prior to May 24, 2000, or any release that has previously been approved by the general assembly acting by bill.

(b) The general assembly determines and declares that the introduction of species is a matter of statewide concern and should be conducted by the state through specific legislation. Such introduction may cause substantial harm to the state's overall ecosystem, including native plants and animal wildlife. The introduction of wildlife species also has far-reaching impacts on benefits from the use of both public and private lands within the state.

(2) Before any wildlife species may be introduced, the department shall prepare a report that includes, at a minimum, the following information:

(a) The potential ecological and economic impacts, including whether the introduction of a wildlife species will prevent or impair the then-existing use or uses of private land, and the benefits of the introduction;

(b) The probable survival rates of the introduced animals;

(c) The possible impacts should the introduction not take place; and

(d) An assessment evaluating whether the introduction of the wildlife species will impair any use of private land or beneficial use of water existing at the time of such introduction. If the assessment concludes that any such use will be impaired by the introduction, the report shall also describe the reason for the impact and possible actions to reduce such impact.

(3) The department shall deliver the report prepared pursuant to subsection (2) of this section to the general assembly, in accordance with section 24-1-136 (9), C.R.S., within thirty days after its completion.

(4) The department shall annually prepare a report for each of the five years after an introduction occurs that shall include, at a minimum, the following information:

(a) The status of the introduction effort;

(b) A report on the estimated survival rates of the introduced wildlife species and their progeny;

(c) If the survival rate of the introduced wildlife species and their progeny is below the initial projected range, an assessment of why the survival rate is lower than expected and the steps that have been considered and put in place to increase survival rates; and

(d) The recovery goals and anticipated timelines of the recovery program.

33-2-106. Management programs. (1) The division shall establish such programs including acquisition of land or aquatic habitat as are deemed necessary for management of nongame, endangered, or threatened wildlife.

(2) In carrying out programs authorized by this section, the division may enter into agreements with federal agencies or political subdivisions of this state or with private persons for administration and management of any area established under this section or utilized for management of nongame, endangered, or threatened wildlife.

(3) The commission may permit, under such terms and conditions as may be prescribed by regulation, the taking, possession, transportation, exportation, or shipment of species or subspecies of wildlife which appear on the state lists of endangered or threatened species for scientific, zoological, or educational purposes, for propagation in captivity of such wildlife, or for other special purposes.

(4) Upon good cause shown and where necessary to alleviate damage to property or to protect human health, endangered or threatened species may be removed, captured, or destroyed but only pursuant to permit issued by the division and, where possible, by or under the supervision of an agent of the division. Provisions for removal, capture, or destruction of nongame wildlife for the purposes set forth in this subsection (4) shall be set forth in regulations issued by the commission pursuant to section 33-2-104 (1).

33-2-107. Regulations. The commission shall issue such regulations as are necessary to carry out the purposes of this article.

33-2-108. Funding. (Repealed)

ARTICLE 3

Damage by Wildlife

PART 1

GENERAL PROVISIONS

33-3-101. Definitions. As used in this article, unless the context otherwise requires:
(1) "Division" means the division of parks and wildlife.

33-3-102. State's liability for damage. The state of Colorado is liable for certain damages caused by wildlife, but only to the extent provided in this article.

33-3-103. No liability for damage - when. (1) The state shall not be liable for:
(a) Damage to livestock caused by coyotes, bobcats, or dogs. It is the intent of the general assembly that the division shall use whatever proper means are available to effectively minimize depredation to livestock by coyotes and bobcats.
(b) Damage to motor vehicles caused by wildlife;
(c) Injury to or the death of any person caused by wildlife;
(d) Damages, if the division has furnished to the claimant sufficient and appropriate damage prevention materials and the claimant has refused to accept or use such materials exclusively for game damage prevention, and if the provisions of section 33-3-103.5 have been complied with by the division and the claimant;
(e) Damages, if the claimant has willfully failed to maintain damage prevention materials throughout the normal life of such materials, and such materials have not been damaged or destroyed by wildlife;
(f) Damages caused by wildlife if the claimant has unreasonably restricted hunting on land under his control or has unreasonably restricted passage to other land by restricting access

across land under his control. In determining whether or not there has been an unreasonable restriction on hunting or availability of access by the claimant, the division shall consider only whether or not such restriction has significantly and adversely reduced a necessary harvest of wildlife.

(g) Damages caused by wildlife, if claimant charges a fee in excess of five hundred dollars per person, per season, for the purpose of big game hunting access on or across claimant's property.

(2) (Deleted by amendment, L. 2009, (SB 09-024), ch. 323, p. 1723, § 1, effective June 1, 2009.)

33-3-103.5. Game damage prevention materials - definitions. (1) This section shall be applicable in determining the liability of the state under paragraph (e) of subsection (3) of this section and section 33-3-103 (1) (d) and (1) (e).

(2) (a) (I) Every landowner shall be eligible to receive sufficient and appropriate temporary game damage prevention materials pursuant to this section.

(II) Permanent game damage prevention materials shall be available only to a landowner who does not unreasonably restrict hunting of species likely to cause damage on land under the landowner's control or restrict the hunting of species likely to cause damage on any other lands by restricting access across lands under the landowner's control, and:

(A) Who charges not more than five hundred dollars per person, per season, for big game hunting access on or across the landowner's property; or

(B) Who charges a fee in excess of five hundred dollars per person, per season, for big game hunting access on or across the landowner's property, if the landowner has requested and been denied game damage prevention materials from the habitat partnership program created in section 33-1-110 (8) and the division determines that excessive game damage is occurring, and may continue to occur in the future.

(III) The division shall not deny a landowner game damage claims or game damage prevention materials on the grounds that the landowner received a voucher pursuant to the wildlife conservation landowner hunting preference program for wildlife habitat improvement under section 33-4-103.

(IV) As used in this section:

(A) "Temporary game damage prevention materials" means materials of an adequate substance that are utilized to protect private property for a period of time agreed upon by the landowner and the division. Such materials may include, but are not limited to, transferable panels or pyrotechnics.

(B) "Permanent game damage prevention materials" means materials of an adequate substance that are erected in such a way to protect private property for the expected normal life of the materials. The normal life of the materials shall be as specified in a written agreement between the landowner and the division.

(b) The division has the responsibility to supply useable, sufficient, and appropriate game damage prevention materials to a requesting landowner, and the landowner shall keep such materials in good repair throughout their normal life, if such materials have not been destroyed or

damaged by wildlife.

(3) (a) The division shall respond to a landowner making an inquiry related to game damage within two business days after receiving the inquiry.

(b) (I) Within five business days after receiving a request for game damage prevention materials, the division shall consult with the landowner to discuss the sufficient and appropriate materials to prevent or mitigate the game damage. Temporary game damage prevention materials shall be delivered to the landowner within fifteen business days after the consultation, unless otherwise agreed to by the division and the landowner.

(II) For a landowner eligible to receive permanent game damage prevention materials pursuant to subparagraph (II) of paragraph (a) of subsection (2) of this section, such materials shall be provided within forty-five days after the date that the landowner makes the initial request for the materials.

(c) The division shall deliver game damage prevention materials to the specific site as directed by the landowner, if such delivery may be made by truck.

(d) When agreed upon by the landowner, the division may construct permanent stackyards or orchard fencing in those areas of high wildlife damage potential within the limitations of appropriation by the general assembly for that purpose.

(e) (I) If the division does not provide game damage prevention materials within the amount of time established by paragraph (b) of this subsection (3), the division shall have the sole responsibility to supply and erect the damage prevention materials, and the state shall be liable for game damages incurred on and after the date by which the division should have provided the game damage prevention materials.

(II) When erecting game damage prevention materials pursuant to subparagraph (I) of this paragraph (e), the division may use division employees, individuals under contract to the division, or voluntary workers. If the division uses voluntary workers to assist in erecting game damage prevention materials, the division shall keep in force workers' compensation insurance as necessary to protect the landowner from liability resulting from injuries or death of said voluntary workers while engaged in the erection of such game damage prevention materials. If the division uses contract workers to assist in erecting game damage prevention materials as provided in this section, the division shall require the contractor to provide evidence of workers' compensation insurance as necessary to protect the landowner from liability resulting from injuries or death of said contract workers while engaged in the erection of such game damage prevention materials.

(4) If the game damage prevention materials that the division provides to a landowner fail to prevent game damage due to insufficiency or inappropriateness of such materials, or if the division's insufficient or inappropriate erection of such materials fail to prevent game damage, the state shall be liable for damages caused by such materials or erection.

33-3-104. State shall be liable - when. (1) Subject to the limitations contained in sections 33-3-103 (1) and 33-3-103.5, and in part 2 of this article, the state shall be liable only for:

(a) Damages to livestock or personal property used in the production of raw agricultural

products, which under this article shall be no more than five thousand dollars per head of livestock injured or killed, caused by big game; except that damages to livestock shall be limited to physical trauma resulting in injury or death;

(b) Damages to real or personal property, when such damages are caused by wildlife that is being moved or is otherwise under the direct control of division personnel at the time the damage occurs;

(c) Damage to real or personal property caused by the use of damage prevention materials if the use of such materials or equipment is under the control of any personnel who are under the direction of division personnel at the time damage occurs;

(d) Damages caused by those species of wildlife enumerated in section 33-1-102 (2) to orchards, nurseries, crops under cultivation, and harvested crops, damages to lawful fences as defined in section 35-46-101 (1), C.R.S., when such damages exceed ten percent of the value of the specific fence involved, and damages to livestock forage in excess of ten percent of historic use levels for privately owned and fenced ranch or farm units which are specifically limited to hay meadows, pasture meadows, artificially seeded rangelands, and grazing land which is deferred to seasonal uses. Damages to aftermath on alfalfa shall be paid to the full extent of such damages without regard to historic numbers of wildlife. Historic levels shall be designated by the claimant at the time of making a claim. Historic levels shall be expressed in average numbers of wildlife present on the property in question based on the twenty-year period ending January 1, 1973. If the division does not agree with the claimant on normal historic levels or any element of a damage settlement, the matter shall be submitted to arbitration within ten days of notice by either party. The arbitration panel shall consist of one arbitrator chosen by the landowner, one arbitrator chosen by the division, and one arbitrator chosen by the other two arbitrators. If the two arbitrators cannot agree within ten days on a third arbitrator, a request by either party shall be made to the district court for the judicial district of the county in which the damage is located for appointment of a third impartial arbitrator. The division and the landowner shall equally share the cost of the use of the third arbitrator. Historic levels or any element settled by arbitration may be included in an appeal to a court of competent jurisdiction, and the court shall not be bound by the finding of the arbitration panel.

(2) Repealed.

(3) The burden of proof shall be with the claimant for all claims for damages enumerated in paragraph (d) of subsection (1) of this section, pursuant to rules established by the commission pertaining to wildlife damage.

(4) If the commission has not promulgated rules relating to damage by wildlife, pursuant to sections 33-1-104 and 33-1-108, the division shall not refuse to pay a claim for wildlife damage.

(5) If for any reason a pertinent rule of the commission relating to wildlife damage is declared void or suspended, the provisions of subsection (4) of this section shall not be applicable.

(6) For the year 1979, any damage claims received by the division after June 21, 1979, shall not be denied until and unless considered under the rules promulgated by the commission relating to damage by wildlife. If such rules are not promulgated by January 1, 1980, the provisions of subsection (4) of this section shall apply.

(7) Repealed.

(8) All rules concerning damages by wildlife adopted or amended by the commission on or after July 1, 1979, shall be subject to sections 24-4-103 (8) (c) and (8) (d) and 24-4-108, C.R.S.

(9) Reimbursement for wildlife damages shall be reduced by the amount of claim awarded by an insurance company for the same damages.

33-3-105. Wildlife migration areas - division to keep records. It is the duty of the division to maintain records of areas used by wildlife for migration purposes, and the division shall furnish information concerning wildlife migration areas to persons requesting such information.

33-3-106. Excessive damage to property - permit to take wildlife - when - harassment by dogs. (1) (a) Where wildlife is causing excessive damage to property, as determined by the division after consultation with the property owner, the division is authorized to issue a permit to the property owner, the property owner's designee, or to such other person selected by the division to kill a specified number of the species of wildlife causing such excessive damage. Upon request by the property owner, whenever the wildlife causing the excessive damage exceeds the wildlife objective set by the division for that species for that geographical area for the current year, the division is encouraged to issue a permit under this section. Any determination by the division that the damage being caused is not excessive may, upon application by the property owner, be reviewed by the commission.

(b) No permit to take wildlife pursuant to this subsection (1) shall be issued or used in violation of any local restriction on firearm use.

(2) Any wildlife killed, as permitted under subsection (1) of this section, shall remain the property of the state and shall be field dressed promptly, and such killing shall be reported to the division within forty-eight hours; except that the killing of a bear or mountain lion shall be reported within five days.

(3) Nothing in this section shall make it unlawful to trap, kill, or otherwise dispose of bears, mountain lions, or dogs without a permit in situations when it is necessary to prevent them from inflicting death, damage, or injury to livestock, real property, a motor vehicle, or human life and additionally, in the case of dogs, when it is necessary to prevent them from inflicting death or injury to big game and to small game, birds, and mammals. Any wildlife killed as permitted under this subsection (3) shall remain the property of the state, and such killing shall be reported to the division within five days. The division may bring a civil action against the owner of any dog inflicting death or injury to any big game and to small game, birds, and mammals for the value of each game animal injured or killed. The minimum value of each animal shall be as set forth in section 33-6-110.

(4) (Deleted by amendment, L. 2003, p. 1939, § 2, effective May 22, 2003.)

33-3-107. Claims procedure. (1) When any person has sustained damages to property caused by any wildlife, he shall notify the division of such damages within ten days after the discovery thereof. In the case of recurring damage, the division shall be notified within ten days after the discovery of each new or different occurrence of damage.

(2) Proof of loss forms shall be filed within ninety days after the last notice of loss is submitted to the division under subsection (1) of this section. The division, within thirty days after the filing of such proof of loss forms, shall make an investigation of the alleged loss, and, where possible, shall attempt to reach an agreement with the claimant upon an amount of settlement. The commission may review settlement agreements between the division and the claimant and may disapprove any settlement which it finds to be unreasonable; but said review is not required in every case and the commission may determine that it will review only certain categories of settlements or that it will not review any settlements. The commission shall review all claims which the division recommends for denial and all claims upon which the division and claimant are unable to reach a settlement; except that a claimant whose claim is within the monetary jurisdictional limitations of the small claims division of county court may waive such review by the commission and commence an action which shall entitle such claimant to a trial de novo in the small claims division of the county court of the county in which the damage or any portion thereof is alleged to have occurred. Such waiver shall be in writing and shall be mailed to the commission within ten days after such claimant receives notification from the division of the denial of his claim, or within ten days after the claimant receives from the division an offer of settlement unacceptable to such claimant. The division may be represented by a full-time employee in small claims court.

(2.5) For payment to a claimant, the controller shall draw a warrant upon a voucher approved by the division and the state treasurer shall pay the amount of settlement out of the wildlife cash fund.

(3) The division shall furnish forms to be used for the notice and proof of loss required under this section.

33-3-108. Review by the commission. If the commission reviews a claim pursuant to the provisions of section 33-3-107, the commission may either confirm a decision of the division denying a claim or may extend to the claimant an offer of settlement. If the claimant disagrees with the commission's determination or refuses to accept the commission's offer of settlement, the claimant may file an action for damages in the district or county court of the judicial district or county in which the damage or any portion thereof is alleged to have occurred. Such action shall be filed within sixty days after the claimant receives notice of denial by the commission, which notice shall set forth the reasons for denial, or within sixty days after the claimant receives an offer of settlement from the commission. If the action is not filed within said sixty-day period, such action shall be forever barred.

33-3-109. Review by commission waived. If a claimant waives the right to commission review pursuant to the provisions of section 33-3-107, such claimant may commence an action

for damages and, in connection therewith, shall be entitled to a trial de novo in the small claims division of the county court of the county in which the damage or any portion thereof is alleged to have occurred. Such action shall be filed within sixty days after the claimant receives notice of denial by the division, which notice shall set forth the reasons for denial, or within sixty days after the claimant receives an offer of settlement from the division. If the action is not filed within said sixty-day period, such action shall be forever barred.

33-3-110. Payment of claim. A certified copy of the judgment of the district or county court shall be forwarded to the division, and, in the event the judgment includes an award to the claimant, the controller is authorized to draw a warrant for the payment of the same upon a voucher approved by the division, and the state treasurer shall pay the same out of the wildlife cash fund.

33-3-111. Annual report to the general assembly. (1) Commencing with the second regular session of the sixty-seventh general assembly, the division shall report at least annually, by January 31 of each year, to the senate agriculture and natural resources committee and the house of representatives agriculture, livestock, and natural resources committee, or their successor committees, on game damage and game damage prevention issues. Such report shall include, at a minimum:

(a) (I) The herd management objectives set by the division and whether those objectives are being met. In providing this information, the division shall supply the actual number of herd animals by game unit.

(II) If any of the herd management objectives of the division are not being met, the division shall set forth in detail its plans, strategies, and efforts that it is using or intends to use in order to achieve compliance with the objectives.

(b) The number of requests for game damage prevention materials, the timeliness of the division in responding to such requests, the quantity and types of temporary and permanent materials issued, the number of requests for materials denied, and, to the extent that such information is available, the adequacy of materials in preventing game damage;

(c) The number of permits to take wildlife requested pursuant to section 33-3-106, the number of permits issued, the amount of wildlife killed under such permits, the number of permits denied, and the reasons for denial;

(d) The number of claims for damages submitted under this section, how many of those claims were settled and the monetary amounts of the settlements, the number of claims pending at the time of the report, the number of claims denied, and the reasons for denial;

(e) Any other costs incurred by the division in administering this article.

PART 2

FORAGE LOSSES

33-3-201. Scope of part - definitions. (1) This part 2 shall govern claims for damage arising from the foraging of wild ruminants on privately owned or leased private land and for which damage the state is liable under section 33-3-104 (1) (d). Except where inconsistent with a specific provision of this part 2, the provisions of part 1 of this article shall also apply to such claims.

(2) For purposes of this part 2, "wild ruminants" includes elk and other ruminants within the definition of big game as set forth in section 33-1-102 (2).

33-3-202. Head counts. The claimant's head count of wild ruminants shall be made upon no less than twenty-four hours' notice to the division, which may arrange to have its personnel present when the count is made. The time of day at which the count is made shall be at the claimant's discretion. If the division chooses not to have personnel present, the claimant's head count shall be conclusive. Subsequent head counts may be made at intervals of ten days.

33-3-203. Claims procedure. (1) When any person has sustained damage to livestock forage caused by wild ruminants, such person shall notify the division of such damages within ten days after the discovery thereof. In the case of recurring damage, the division shall be notified within ten days after the discovery of each new or different occurrence of damage.

(2) (a) Proof of loss forms shall be filed within ninety days after the last notice of loss is submitted to the division under subsection (1) of this section. The division, within thirty days after the filing of such proof of loss forms, shall make an investigation of the alleged loss, and, where possible, shall attempt to reach an agreement with the claimant upon an amount of settlement. All such agreements shall be completed and the settlement amount paid in full within sixty days after terms and conditions have been agreed upon; otherwise, at the claimant's option, the matter shall proceed to arbitration or to court as provided in this article.

(b) (I) If the division does not agree with the claimant on normal historic levels, or any element of a damage settlement, the matter shall be submitted to arbitration within ten days of notice by either party unless the claimant waives arbitration. The arbitration panel shall consist of one arbitrator chosen by the landowner, one arbitrator chosen by the division, and one arbitrator chosen by the other two arbitrators. If the two arbitrators cannot agree within ten days on a third arbitrator, a request by either party shall be made to the district court for the judicial district of the county in which the damage is located for appointment of a third impartial arbitrator. The division and the landowner shall equally share the cost of the use of the third arbitrator.

(II) In any case which goes to arbitration, all arbitrators chosen shall reside within fifty miles of the subject property. The arbitration proceeding shall be conducted pursuant to part 2 of article 22 of title 13, C.R.S. The decision of the arbitration panel shall be binding and shall be subject to judicial review only for statutory compliance with the provisions of this article and the said act. The claimant or the division may seek such review by filing an action for same in the county or district court in the county or judicial district where the subject damage is alleged to have occurred within thirty days after receipt of the arbitration panel's decision.

(c) Any waiver of arbitration shall be in writing and shall be mailed to the division within ten days after the claimant receives notification from the division of the denial of the claim, or within ten days after the claimant receives from the division an offer of settlement unacceptable to such claimant.

(d) In adjudication of any claim, should the court find that the claimant has made or the division has contested the claim without a substantial legal or factual basis, the court shall award the other party reasonable attorney fees, not to exceed the actual amount incurred, upon the submission of satisfactory proof thereof.

(3) For payment to a claimant, the controller shall draw a warrant upon a voucher approved by the division and the state treasurer shall pay the amount of settlement out of the wildlife cash fund.

(4) The division shall furnish forms to be used for the notice and proof of loss required under this section.

33-3-204. Waiver of arbitration - action for damages. If a claimant waives the right to arbitration pursuant to the provisions of section 33-3-203, the commission shall review the claim as provided in section 33-3-107. Such claimant may commence an action for damages and, in connection therewith, shall be entitled to a trial de novo in any court of the county in which the damage or any portion thereof is alleged to have occurred. The division may be represented by a full-time employee in small claims court. Such action shall be filed within sixty days after the claimant receives notice of denial by the commission, which notice shall set forth the reasons for denial, or within sixty days after the claimant receives an offer of settlement from the commission. If the action is not filed within said sixty-day period, such action shall be forever barred.

ARTICLE 4

Licenses, Certificates, and Fees

33-4-101. License agents - reports - board of claims - penalty for failure to account. (1) The director may designate sole proprietors, partnerships, or corporations as license agents to sell hunting, fishing, trapping, and other licenses of the division. License agents shall be paid a commission, in an amount to be determined by rule by the commission, on 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, which may be less than the full value of consignment in an amount adequate to 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 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 date due.

(2) The executive director, state auditor, and attorney general, or their duly designated representatives, shall constitute a board of claims for the hearing of all claims for relief when any license agent is unable to account for licenses and claims that the same have been destroyed, lost, or stolen. The findings of the board of claims are subject to review pursuant to section 24-4-106, C.R.S. Claims for relief in an amount totaling three hundred dollars or less shall not be determined by the board of claims, except as otherwise provided in this section, but shall be settled by the division. If the division offers to make settlement and such settlement is not accepted by the claimant, the claimant may submit his claim to the board of claims.

(3) Every agent designated to sell licenses shall account for all licenses delivered to such agent. If any license agent is not able to account for any license, such agent shall be responsible for the maximum fee for which each unaccounted-for license could have been issued, except as provided in subsections (4) to (8) of this section.

(4) Any agent designated to sell licenses may make a claim under oath for relief from responsibility for licenses which have been lost, stolen, or destroyed and for which such agent is unable to account, but no claim for relief shall be considered unless the agent making the claim informs the division of such loss, theft, or destruction within thirty days after such loss, theft, or destruction is discovered, said notice to set forth in detail all pertinent information then known to the agent. Upon receipt of any claim for relief, it is the duty of the division to make an investigation of the claim as soon as practicable, and for that purpose the claimant shall make available such records, information, or other pertinent data as may be in his possession or under his control. A written report of such investigation shall be filed by the division with the board of claims.

(5) As soon as practicable after receipt of the investigator's report and in no event later than one hundred twenty days after receipt of notice of a claim for relief, the board of claims shall set a date for the hearing on such claim for relief, and the claimant may appear at the hearing if he so desires. The claimant shall be given not less than ten days' written notice of the date of the hearing, such notice to be mailed to his last-known address.

(6) The board of claims may give relief to any claimant in the following circumstances and subject to the following limitations:

(a) If the board of claims is satisfied that any licenses were destroyed due to fire, flood, act of God, or any other cause beyond the control of the claimant and that destruction was not due in part to his negligence, then the board of claims may entirely relieve the claimant of the responsibility to account for such licenses or make such lesser adjustment as the board of claims may deem proper.

(b) If the board of claims is satisfied that any licenses were either lost, stolen, or destroyed under circumstances other than those set forth in paragraph (a) of this subsection (6), the board of claims may, in its discretion, make an adjustment of the amount due for any such licenses. The board of claims, in determining what adjustment, if any, shall be allowed for any lost, stolen, or destroyed licenses, may consider the following:

(I) Whether or not, or the extent to which, the loss was due to the negligence or carelessness of the claimant in the handling of licenses, but no adjustment shall be made in the case of gross negligence or gross carelessness upon his part;

(II) Such other evidence as the board of claims may consider pertinent.

(7) The board of claims, in the event that it makes any adjustment upon a claim, may, in its discretion, require the use of such protection against the possibility of future loss, theft, or destruction of licenses as it may deem proper, including, but not limited to, the posting of corporate or personal surety bonds.

(8) It is the legislative intent of subsections (2) to (7) of this section to provide in proper cases for the relief of license agents where licenses have been lost, stolen, or destroyed, which relief, however, shall be strictly construed, it being the further intent of such sections to encourage the proper and careful handling of licenses by license agents.

(9) The commission may promulgate rules and regulations for the cash sale of licenses, at a price which is discounted five percent from the face value thereof, to license agents of the division for resale to the public at the face value stated on such a license. Only the license agents of the division in good standing may qualify to purchase and sell under this subsection (9); except that no evidence of financial responsibility shall be required to qualify under this subsection (9). A post or base exchange of the United States government located in Colorado may qualify as a license agent for the purpose of this subsection (9). Failure to comply with all applicable rules and regulations of the commission and lawful directives of the division regarding license agents shall be grounds for the suspension or termination of the license agency, and, upon suspension or termination, all unsold licenses shall be returned immediately to the division for return of cash in the amount paid by the license agent for the licenses. The commission, in connection with a program which it may adopt under this subsection (9), shall provide for redemption by the division, at least annually, of any unsold licenses in the amount paid by the license agent for such unsold licenses. The provisions of subsections (1) to (8) of this section, except the provisions of subsection (1) regarding the designation of license agents, shall not apply to licenses sold under this subsection (9).

(10) The commission may authorize certain employees to sell licenses for the face value thereof at the headquarters and regional offices of the division. Such employees are not entitled to five percent of the face value of the licenses and are not required to give evidence of financial responsibility. Such employees may make claims under oath for relief from responsibility for licenses or moneys which have been lost, stolen, or destroyed and for which the employees are unable to account in accordance with the provisions of subsections (4) to (8) of this section.

(11) Any license agent who fails, upon demand of the division, to account for licenses or who fails to pay over to the division or its authorized representative moneys received from the sales of licenses:

(a) When the amount in question is less than two hundred dollars, 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;

(b) When the amount in question is two hundred dollars or more, commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S., which punishment shall include a fine in an amount set out in section 18-1.3-401 (1) (a) (III), C.R.S.

33-4-101.3. Black bears - declaration of intent - spring season hunting prohibited - prohibited means of taking - penalty. (1) It is the intent of the voters of Colorado in adopting this measure to prohibit the taking of black bears when female black bears are rearing their cubs. It is the further intent of the voters of Colorado to promote the concept of fair chase in the taking of black bears by eliminating the use of bait and dogs. In considering proposed changes to the restrictions on the taking of black bears which are established in this measure, the Colorado general assembly shall take notice of the fact that this measure was adopted by a vote of the people at the 1992 general election.

(2) During the period from March 1 through September 1 of any calendar year, it is unlawful for any person to take a black bear by any means including but not limited to firearm or bow and arrow.

(3) It is unlawful for any person to take a black bear with the use of bait, or with the use of one or more dogs, at any time during any calendar year. In the event that a dog or dogs accidentally chases a black bear while the owner or person in control of such dog or dogs is in legal pursuit of other game, such owner or person in control of the dog or dogs shall not be charged with the illegal taking of a black bear so long as the dog or dogs are called off as soon as the mistake is realized and the black bear is not injured or killed.

(4) The provisions of this section shall not apply to employees or agents of the division of parks and wildlife or to field agents of the United States department of agriculture when such employees or agents are acting in their official capacity, nor shall this section apply to any person who lawfully takes a black bear in defense of livestock, real property, a motor vehicle, or human life pursuant to section 33-3-106.

(5) For purposes of this section, "bait" means to place, expose, deposit, distribute, or scatter salt, minerals, grain, animal parts, or other food, so as to constitute a lure, attraction, or enticement for black bears on or over any area where hunters are attempting to take black bears.

(6) Any person who violates any provision of this section is guilty of a class 1 misdemeanor and, upon conviction thereof, shall be punished as provided in section 18-1.3-501, C.R.S. In addition, persons convicted pursuant to this section shall have their wildlife license privileges suspended for five years and persons convicted of a second or subsequent offense pursuant to this section shall have their wildlife license privileges suspended permanently.

(7) For the purposes of this section, "agent" means any qualified individual trained in wildlife procedures and operating under the direction of the division of parks and wildlife.

33-4-102. Types of licenses and fees - rules - repeal. (1) Except as otherwise provided in subsection (1.6) of this section, the division is authorized to issue the following resident and nonresident licenses and shall collect the following fees therefor:

	Fees	
	Resident	**Nonresident**
(a) to (p) Repealed.		
(q) Bonus trout stamps	$11.00	$11.00
(r) to (u) Repealed.		
(v) 3-year possession/hunting raptor license	$100.00	Not available
(w) Annual possession/hunting raptor license	Not available	$55.00
(x) Repealed.		
(y) Peregrine falcon capture license	$200.00	Not available

(1.1) to (1.3) Repealed.

(1.4) The division is authorized to issue the following resident and nonresident licenses and shall collect the following fees therefor, except as otherwise provided pursuant to subsection (1.6) of this section:

	Fees	
	Resident	**Nonresident**
(a) Extra rod stamp	$ 5.00	$ 5.00
(b) Fishing - 1 day	8.00	8.00
(c) Fishing - 5 days	Not available	20.00
(d) Fishing - annual	25.00	55.00
(e) Senior annual fishing	Free	Not available
(f) Small game hunting	20.00	55.00
(g) Small game - 1 day	10.00	10.00
(h) Furbearer license	25.00	200.00
(i) (Deleted by amendment, L. 94, p. 1220, § 3, effective May 22, 1994.)		
(j) Turkey, fall	15.00	100.00
(j.3) Turkey, spring	20.00	100.00
(j.6) Turkey (youth)	10.00	75.00
(k) Combination fishing and small game hunting	40.00	Not available
(l) Pronghorn	30.00	270.00
(m) Bear, fall	40.00	450.00
(n) Repealed.		
(o) Deer	30.00	270.00

(p) Elk	45.00	450.00
(q) Mountain goat	250.00	1,500.00
(r) Moose	250.00	1,500.00
(s) Mountain lion	40.00	450.00
(t) Rocky mountain bighorn sheep	250.00	1,500.00
(u) Desert bighorn sheep	250.00	1,000.00
(v) (I) Resident low-income senior lifetime fishing	Free	Not available
(II) (Deleted by amendment, L. 97, p. 766, § 1, effective May 1, 1997.)		
(w) Youth big game (deer, elk, pronghorn)	10.00 each	100.00 each
(x) Youth small game hunting	1.00	1.00
(y) Repealed.		
(z) Colorado wildlife habitat stamp, purchased in conjunction with the purchase of a hunting or fishing license	10.00	10.00
(aa) "Lifetime" Colorado wildlife habitat stamp	300.00	300.00

(1.5) (Deleted by amendment, L. 2005, p. 469, § 1, effective January 1, 2006.)

(1.6) (a) By promulgation of appropriate rule, 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, and may by promulgation of appropriate rule later raise such license fee up to the statutory limit, when in the judgment of the commission one of the following conditions applies:

(I) When the commission determines that it would be beneficial to issue such license in conjunction with another type of license and creates a combination license;

(II) When the commission determines it is proper for management of the division or otherwise beneficial to the management of state wildlife resources. Licenses so discounted may be limited to certain geographic areas, by sex, or as otherwise deemed appropriate by the commission.

(III) 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;

(IV) When the commission determines pursuant to section 24-75-402 (3), C.R.S., that a reduction in the amount of the fee is necessary to reduce the uncommitted reserves of the fund to which all or any portion of the fee is credited. After the uncommitted reserves of the cash fund are sufficiently reduced, the commission by rule or as otherwise provided by law may increase the amount of the fee as provided in section 24-75-402 (4), C.R.S.

(b) The nonresident big game fees described in subsection (1.4) of this section shall annually be adjusted in accordance with changes in the United States bureau of labor statistics

consumer price index for the Denver-Boulder-Greeley consolidated metropolitan statistical area for all urban consumers and all goods or its successor index. Such adjustment shall not be effective until the commission notifies the joint budget committee of such adjustment.

(c) Repealed.

(1.7) Nothing in this section shall be construed to invalidate any senior lifetime license previously issued by the division.

(1.8) Any moneys realized as a result of the fee increases related to fishing specified in subsection (1.4) of this section shall be allocated for use in the fisheries and hatcheries presently operated by the division.

(1.9) (a) (I) The general assembly hereby finds, determines, and declares that:

(A) Service members returning from post-September 11, 2001, overseas contingency operations who have been injured during combat face a challenging period of rehabilitation upon their return to the United States;

(B) Many of these service members are so severely injured that they require medical assistance for many years, or even the rest of their lives, as they reenter mainstream life;

(C) Although the scope of care provided by the United States armed services wounded warrior programs varies with each service member, based on the needs of the individual, these service members may be assigned, upon return to Colorado, to a medical treatment facility such as Evans army hospital at Fort Carson, Colorado;

(D) Wounded warrior programs are direct efforts by the United States armed services to care for service members during their long transition from combat-related injury to civilian life and to provide assistance to those service members in recovery, rehabilitation, and reintegration that is worthy of their service and sacrifice; and

(E) For those wounded warriors who suffer injuries so severe that they will require intense, ongoing care or assistance for many years or the rest of their lives, a significant part of the healing process is enabling and encouraging these service members to experience some of the recreational activities they enjoyed prior to their service-related injuries.

(II) The general assembly therefore recognizes the need to provide opportunities for Colorado's severely injured "wounded warriors" to enjoy the natural resources of the state as part of their rehabilitative care. Furthermore, offering reduced-cost or free big game hunting licenses to such recovering service members is a small, but recognizable, acknowledgment of their selfless service and sacrifice.

(b) The commission may promulgate rules to reduce or eliminate big game license fees and establish a big game hunting license preference for members of the United States armed services wounded warrior programs who are residents of, or stationed in, Colorado and who have been so severely injured that they will require years of intense, ongoing care or assistance.

(c) As used in this subsection (1.9), "United States armed services wounded warrior programs" means:

(I) The Army wounded warrior (AW2) program;

(II) The Air Force wounded warrior (AFW2) program;

(III) The Navy safe harbor program;

(IV) The Coast Guard wounded warrior regiment; and

(V) Any successor program administered by a branch of the United States armed services

to provide individualized support for service members who have been severely injured in overseas contingency operations undertaken since September 11, 2001.

(d) The commission may adopt rules to implement this subsection (1.9), including rules defining "severely injured" and establishing residency requirements for service members eligible under this subsection (1.9).

(2) Except as otherwise provided in subsection (1.6) of this section, the division is authorized to issue the following special licenses and shall collect the following fees therefor:

Fees

(a) Scientific collecting license for the collection of wildlife species outside of established seasons and bag limits
$ 20.00

(b) Importation license, issued for the purpose of importing wildlife into the state
50.00

. . . . . (c) Field trial license
15.00

(d) Commercial lake license, issued for the operation of privately owned lakes for purposes of charging customers to fish; no live fish or viable gametes may be sold or transported from the premises
150.00

(e) Private lake license, issued for the operation of privately owned lakes for the purpose of fishing when no fee is charged; no fish or gametes may be sold or live fish or viable gametes transported from the premises
10.00

(f) Commercial wildlife park license, issued for the operation of privately owned wildlife parks and for related buying, selling, or trading of lawfully acquired wildlife or for charging customers to hunt on such a park
100.00

(g) Noncommercial park license, issued to persons who wish to keep lawfully acquired native birds except raptors as pets
20.00

(h) (Deleted by amendment, L. 91, p. 199, § 4, effective June 7, 1991.)

. . . . . (i) Wildlife sanctuary license
100.00

(3) Any license issued by the division for which a fee is not provided in subsection (1) or (2) of this section shall not exceed forty dollars.

(4) Repealed.

(5) Any person may obtain more than one one-day or five-day fishing license during a calendar year. The effective date shall appear on every such fishing license. Said date may be the date it is procured or any future date during the fishing season specified by the license.

(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.

(b) Repealed.

(7) Any person claiming residency in Colorado as set forth in section 33-1-102, for the purpose of purchasing a resident license of any kind, must produce evidence of such residency at the time of purchase.

(8) In the event of the loss, theft, or destruction of a small game, fishing, furbearer, or combination small game and fishing license, the person to whom the license was issued may purchase a new license from any license agency or may obtain a duplicate license from the division upon payment of a fee, not to exceed five dollars, to be established by the commission by rule and regulation and completion of an affidavit as set forth below. In the event of the loss, theft, or destruction of any other license issued by the division, the person to whom the license was issued may receive a duplicate license from the division upon payment of a fee of fifty percent of the cost of the original license, not to exceed twenty-five dollars, and completion of an affidavit stating where and by whom said license was issued and the circumstances under which said license was lost, stolen, or destroyed. In the event the division determines that the original license has been lost or destroyed in the mail, the person to whom the license was issued may obtain a duplicate license from the division without charge by submitting to the division a signed affidavit stating that such license was never received.

(8.5) (a) Except for the annual Colorado wildlife habitat stamp and the lifetime Colorado wildlife stamp, a surcharge of seventy-five cents shall be assessed on each license listed in subsection (1.4) of this section that is sold by the division or one of its license agents pursuant to section 33-4-101. Revenues derived from the assessment of such surcharge, together with any interest earned thereon, shall be deposited in the wildlife management public education fund created in section 33-1-112 (3.5) (a).

(b) to (e) (Deleted by amendment, L. 2005, p. 469, § 1, effective January 1, 2006.)

(9) All licenses issued pursuant to this section expire on the date written or printed thereon, unless otherwise provided by the commission or by any other law.

(10) Repealed.

(11) With respect to licenses which are issued in limited numbers for the taking of game wildlife, the division is authorized to collect from each license applicant a nonrefundable processing fee not to exceed three dollars.

(12) (a) A person holding a valid aquaculture facility permit pursuant to section 35-24.5-109, C.R.S., may charge a fee for fishing at the production facility; no state fishing license is required.

(b) Several satellite stations of a fish production facility may operate under one aquaculture license provided all such satellite stations are listed on such license.

(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 or accredited zoological park or in connection with the export of such animals from Colorado.

(c) No licensed zoological park may import noncervid 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.

(g) (I) Except as provided in subparagraph (II) of this paragraph (g), this subsection (13) does not apply to any zoological park that is accredited by the American zoo and aquarium association. Any intrastate transfer and movement of wildlife by a zoological park accredited by the American zoo and aquarium association to another zoological park accredited by the American zoo and aquarium association is not subject to the rules of the commission regarding movement and disease testing.

(II) Any intrastate transfer and movement of wildlife by a zoological park accredited by the American zoo and aquarium association to any person or entity not accredited by the American zoo and aquarium association is subject to the rules of the commission regarding movement and disease testing.

(14) (a) The commission shall establish a license classification for wildlife sanctuaries. Each license for a wildlife sanctuary shall be subject to the following requirements:

(I) The purpose of the wildlife sanctuary shall be to operate as a place of refuge where

abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced wildlife are provided care for their lifetime;

(II) The wildlife sanctuary 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 wildlife kept at the sanctuary; and

(III) The wildlife sanctuary shall have a state-licensed veterinarian on staff or under contract with the sanctuary and available to provide professional consultation and care when needed.

(b) An application for a license for a wildlife sanctuary shall include the following:

(I) The name, complete street address, mailing address if different from the street address, and telephone number of the facility;

(II) Evidence of the wildlife sanctuary's status under section 501 (c) (3) of the federal "Internal Revenue Code";

(III) The specific location where wildlife is housed;

(IV) The current wildlife inventory, including the common and scientific name, gender, age, and origin of each animal; and

(V) A signed statement by a licensed veterinarian stating the veterinarian is the veterinarian of record for the applicant and the veterinarian's complete address, telephone number, and license number. The veterinarian shall certify that the veterinarian has observed each of the applicant's animals at least once during the previous three months and that the wildlife have been appropriately immunized and cared for.

(c) The annual fee for a license for a wildlife sanctuary shall not exceed one hundred dollars.

(15) Notwithstanding any provision of this article to the contrary, revenue generated from the fees increased by House Bill 05-1266, enacted at the first regular session of the sixty-fifth general assembly, shall be used to implement key priorities in the commission's strategic plan.

33-4-102.5. Issuance of migratory waterfowl stamp - prohibition against hunting without stamp. (1) As used in this section, unless the context otherwise requires, "migratory waterfowl" means any wild goose or duck.

(2) All persons sixteen years of age or older shall procure a state migratory waterfowl stamp before hunting or taking any migratory waterfowl within Colorado. Such stamp shall be in the possession of the person while hunting or taking any migratory waterfowl.

(3) (a) The fee for each stamp shall be five dollars, and the stamp shall remain valid through the last day of June following its issuance. Each stamp shall be validated by the signature of the licensee written across the face of the stamp.

(b) Notwithstanding the amount specified for the fee in paragraph (a) of this subsection (3), the commission by rule or as otherwise provided by law may reduce the amount of the fee if necessary pursuant to section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of the fee is credited. After the uncommitted reserves of the fund are sufficiently reduced, the commission by rule or as otherwise provided by law may increase

the amount of the fee as provided in section 24-75-402 (4), C.R.S.

(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. At least one of 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.

(5) All moneys received pursuant to the issuance of the migratory waterfowl stamp shall be used for the sole benefit of migratory waterfowl habitats and shall be subject to an annual appropriation.

(6) Repealed.

33-4-102.7. Colorado wildlife habitat stamp - review committee - rules - study - repeal. (1) The general assembly hereby finds, determines, and declares that:

(a) Protecting wildlife habitat and obtaining public access are important elements to preserving wildlife and wildlife-related recreational opportunities in Colorado;

(b) The general assembly specifically recognizes that hunting of big game species is an activity that hundreds of thousands of residents and visitors to Colorado enjoy, which contributes significantly to state and local economies; and

(c) Priorities for the expenditure of funds generated from the sale of habitat stamps shall include protecting big game winter range and migration corridors, acquiring public access to wildlife-related recreation, including fishing, hunting, and wildlife viewing, protecting habitat for species of concern, and preserving the diversity of wildlife enjoyed by Coloradans.

(1.5) A person eighteen years of age or older and under sixty-five years of age shall purchase a Colorado wildlife habitat stamp, or shall have purchased a lifetime Colorado wildlife habitat stamp, when applying for or purchasing a hunting or fishing license. No habitat stamp purchase is required prior to application for or purchase of such person's first two one-day hunting or fishing licenses, but a habitat stamp shall be purchased prior to applying for or purchasing a third one-day hunting or fishing license. No person is required to purchase more than one Colorado wildlife habitat stamp within a twelve-month period. Any person acquiring a license issued pursuant to section 33-4-104 and any person who is mobility-impaired, as defined by commission rules, is exempt from the requirement to purchase a Colorado wildlife habitat stamp.

(2) Such stamp, or an authorized facsimile of such stamp, shall be in the possession of the person while hunting or fishing.

(3) Fees for each stamp shall be as established in section 33-4-102 (1.4).

(4) (a) All moneys received pursuant to the issuance of the Colorado wildlife habitat stamp shall be used for the benefit of wildlife habitat or access to wildlife habitat, including costs associated with the operation and maintenance, such as weed control and fencing, of those lands

purchased in fee simple by the division or those access easements acquired by the division under the Colorado wildlife habitat protection program. Revenues collected from the sale of the stamp are subject to annual appropriation. The Colorado wildlife habitat stamp review committee shall annually review proposed projects for expenditure of Colorado wildlife habitat stamp funds and make recommendations to the director and the commission. In consultation with the habitat stamp committee, the commission shall, in its discretion, ensure that, in the allocation of revenues under this section, sufficient priority is given to conserve and protect winter range and vital habitats, including migration corridors, for deer, elk, and other big game wildlife species; to improve public access for hunting, access for anglers to the waters of the state, and access for other wildlife-related recreation; to protect habitat for species of concern; and to preserve the diversity of wildlife enjoyed by Coloradans.

(b) Repealed.

(c) Real property interest acquisitions made by the commission pursuant to this section shall emphasize the acquisition of easements and ensure that all other avenues are pursued prior to fee simple acquisition. Conservation easements, as described in section 38-30.5-104 (2), C.R.S., and fee simple title purchases are allowed. All fee simple title purchases made with revenues collected pursuant to this section, not including purchases of water for maintenance or enhancement of aquatic habitats, such as minimum storage pools or direct flow rights purchased specifically to protect habitat, shall be primarily for the purpose of providing access to the public for wildlife-related recreation, and shall be made available to the public for hunting or fishing, subject to commission rules. The commission shall not use the power of eminent domain to obtain fee simple title or a conservation easement on real property. The commission shall comply with a seller's agreement or sections 33-1-105 and 33-1-105.5 prior to purchasing real property.

(d) No third-party conservation easement shall be obtained using proceeds from the sale of habitat stamps unless the requesting organization contributes at least fifteen percent of the purchase price of the easement or fifteen percent of the purchase price is secured using other sources of nondivision funding; however, if, in the commission's discretion, sufficient hunting or fishing access is provided, the fifteen percent contribution requirement may be waived.

(5) The Colorado wildlife habitat stamp committee is hereby created. The committee shall be composed of four sports persons; two representatives of national or regionally recognized conservation organizations whose missions are focused on nongame wildlife and whose membership is composed primarily of nongame wildlife users; two landowners actively engaged in agriculture; one citizen at large; and two division of parks and wildlife representatives as ex officio members, at least one of whom shall be a wildlife biologist. The sports persons shall be representative of the four quadrants of the state. Members shall be appointed by the governor and confirmed by the senate. Staggered appointments shall be made so that not more than two members' terms expire in any one year, and thereafter appointments shall be for terms of four years each. Members shall be limited to two consecutive four-year terms.

(6) Repealed.

(7) The commission may adopt rules concerning the Colorado wildlife habitat stamp.

(8) (a) This section is repealed, effective July 1, 2027.

(b) Prior to such repeal, the committee created in this section shall be reviewed as provided for in section 2-3-1203, C.R.S.

(9) Repealed.

33-4-103. Landowner preference for hunting license - legislative declaration - rules. (1) **Legislative declaration.** (a) The general assembly hereby finds, determines, and declares that the wildlife resources of the state are in danger of decline from increasing population pressures and the loss of wildlife habitat. In order to encourage private landowners to provide habitat that increases wildlife populations for the benefit of all hunters, discourage the harboring of game animals on private lands during public hunting seasons, and relieve hunting pressure on public lands by increasing game hunting on private lands, the general assembly finds that it is necessary to provide an incentive-based system to landowners to provide habitat for wildlife through a hunting license allocation program that allows hunters access to the state's wildlife under the cooperative control of the private landowner.

(b) The landowner preference program is designed to encourage hunter access to private land by enabling landowners to apply for licenses using applications based upon land ownership and wildlife benefit.

(2) **Eligibility.** (a) A landowner who is an owner, as shown by a recorded deed, of a parcel of agricultural land of one hundred sixty acres or more and whose land meets the following requirements is eligible for the landowner preference program, also referred to in this section as the "program". The land must:

(I) Be inhabited by the species being applied for in significant numbers throughout the year or in substantial numbers for shorter times;

(II) Provide for the species being applied for wintering habitat, transitional habitat, calving areas, solitude areas, migration corridors, or an important food source; and

(III) Have a history of game damage or a huntable population of the species being applied for.

(b) For owners of one hundred sixty to six hundred thirty-nine acres, the division shall verify the size of the property and that the property meets the eligibility requirements of this subsection (2) before issuing the applications under subsection (3) of this section.

(c) Owners of properties registered under the "wildlife conservation application program" that existed prior to July 1, 2013, remain eligible to participate in the program until the earlier of:

(I) July 1, 2016;

(II) The date when the ownership of the property is transferred to a person who is not within the immediate family of the owner; or

(III) The date when the owner of land no longer is in compliance with this section or any rule promulgated under this section.

(3) **Applications - availability.** (a) After determining a landowner is eligible and in compliance with this section, the division shall issue the landowner applications for licenses permitting the hunting of deer, elk, pronghorn, and such other species, except for moose, rocky mountain big horn sheep, desert big horn sheep, and rocky mountain goat, that meet the commission's animal management objectives for the game management unit where the property lies, in an amount determined by this subsection (3).

(b) (I) In game management units west of interstate highway 25:

(A) Ten percent of the number of licenses established for each management area where firearm hunting licenses are totally limited are available for eligible landowners; and

(B) An additional ten percent of the number of licenses established for each management area where firearm hunting licenses are totally limited are available for eligible landowners if these licenses are restricted to use on private land in the designated management area.

(II) In game management units east of interstate highway 25:

(A) Fifteen percent of the number of licenses established for each management area where firearm hunting licenses are totally limited are available for eligible landowners; and

(B) An additional ten percent of the number of licenses established for each management area where firearm hunting licenses are totally limited are made available for eligible landowners if these licenses are restricted to use on private land by the applicant's immediate family members or youth under eighteen years of age.

(III) The division shall make licenses not used by eligible landowners available to the general public.

(c) (I) The applications available under this subsection (3) are allocated to a participant based upon the following schedule:

(A) For owners of one hundred sixty to one thousand two hundred thirty-nine acres, one application;

(B) For owners of six hundred forty to one thousand two hundred thirty-nine acres, an additional application for a license restricted to private land if the division has verified that the land meets the conditions required for eligibility under paragraph (a) of subsection (2) of this section; and

(C) For owners of one thousand two hundred forty or more acres, one additional application for each additional six hundred acres more than one thousand two hundred forty acres, not to exceed nineteen applications or the limit imposed by subparagraph (II) of this paragraph (c).

(II) Landowners may obtain more than eight applications only if the division has verified that the land is the size reported by the landowner and meets the conditions required for eligibility under paragraph (a) of subsection (2) of this section.

(4) **Requirements - vouchers.** In addition to the limitation on the number of applications available under the program, the program has the following additional requirements and authorizations:

(a) Successful applicants receive a voucher that may be transferred to any person who is eligible for a big game license for that species, to be used for the purchase of a license to be used only within the applicant's game management unit for that species and in accordance with any restrictions imposed by this section.

(b) The transfer of a license voucher by a landowner must include permission to access and hunt the lands yielding the license under the program during the entire season that the license is issued. The permission must not discriminate among hunters entering the property or contain restrictions other than manner of access, including foot, horseback, or vehicular restrictions reasonably necessary to prevent damage to property.

(c) Except as authorized by paragraph (a) of this subsection (4), a voucher that has been transferred by any person who is not the landowner or land manager is void. A voucher that is

brokered for another person is void. A hunting license obtained for use with a void voucher is also void.

(d) If a landowner submits one or more applications that fail to yield a license, the division shall give a preference in succeeding years to one application of that landowner for each application of the same landowner that failed to yield a license.

(e) (I) In game management units where hunting is totally limited for a species, and where eligible landowners do not use the number of landowner preference licenses established for a species for that management area, the division shall make the unused licenses available to private landowners in that particular game management unit or data analysis unit as a first priority before making them available to the general public hunter.

(II) A landowner may receive no more than three times the number of leftover applications than the number of initial applications authorized under paragraph (c) of subsection (3) of this section.

(f) If a landowner or hunter fails to comply with this section or any rule promulgated under this section, the division may disqualify the person from participation in the program for up to five years.

(5) The commission shall adopt rules to implement this section prior to July 1, 2014.

33-4-104. Free licenses issued - members or veterans of armed forces - when - rules. (1) Any active or retired member of the United States armed forces while stationed as a resident patient at any United States armed forces hospital or convalescent station located within Colorado, any resident patient at a veterans administration hospital and resident patients of any state institution for the treatment of persons with mental illness or other mental health institution in Colorado while under supervision of a proper staff member thereof, and any resident who is totally and permanently disabled as determined by the social security administration or the division of labor or pursuant to rule or regulation of the commission may obtain a fishing license free of charge, valid for taking fish during the period of residency only, under rules and regulations of the commission.

(2) Any Colorado resident on active duty outside this state with any branch of the armed forces of the United States may obtain, from the division of parks and wildlife, a fishing license free of charge, valid for taking fish while such person is in this state on temporary leave from such duty, but not to exceed a total of thirty days during any year.

(3) (a) Any resident of this state who has received a purple heart for service in the United States armed forces or who is a disabled veteran may obtain from the division of parks and wildlife, free of charge, a lifetime resident combination small game hunting and fishing license.

(b) For the purposes of this subsection (3), "disabled veteran" means an individual who is a resident as defined in section 33-1-102 (38), has served on active duty in the armed forces, has been separated therefrom under honorable conditions, and has established to the division of parks and wildlife the presence of a service-connected disability which has been rated by the veterans administration at sixty percent or more through disability retirement benefits or a pension because of a public statute administered by the veterans administration or the department of the Army, Navy, or Air Force.

(4) The commission may adopt appropriate rules to establish a preference for active duty members of the United States armed forces who are stationed at any military facility located in Colorado or are Colorado residents upon their return from service outside of the United States for licenses left over after completion of the division's annual limited license draw. The preference may allow for such a member of the United States armed forces to apply for preference points for any limited license draw that occurred during the member's absence.

(5) A person assigned to the warrior transition battalion may obtain from the division a fishing license free of charge.

33-4-105. Licenses for residents sixty-four years of age or over. (Repealed)

33-4-105.5. Landowner preference for hunting license. (Repealed)

33-4-106. Miscellaneous licenses, permits, stamps, cards, passes, and certificates - fees. (Repealed)

33-4-107. Permit to collect for scientific purposes. (Repealed)

33-4-108. Certificate of lawful possession. (Repealed)

33-4-109. Specimens may be held - when. (Repealed)

33-4-110. Duplicate tags. (Repealed)

33-4-111. Taxidermists must have license. (Repealed)

33-4-112. License agents - reports - board of claims. (Repealed)

33-4-113. Certificate of competency and safety - when necessary. (Repealed)

33-4-114. Course in hunter safety and competency. (Repealed)

33-4-115. Division of wildlife to coordinate statewide programs. (Repealed)

33-4-116. Big game hunting licenses - auction or raffle - use of proceeds - rules. (1) (a) The division is authorized to issue up to two either-sex rocky mountain bighorn sheep licenses, two either-sex rocky mountain goat licenses, two either-sex shiras moose licenses, four either-sex mule or white-tailed deer licenses, four either-sex rocky mountain elk licenses, and four either-sex pronghorn licenses each year through a competitive auction or raffle.

(b) A nonprofit organization directly involved in the conservation of wildlife in Colorado or the division may be authorized by the commission to conduct the license auction or raffle. All such auctions and raffles shall be conducted pursuant to Colorado law.

(2) (a) Except as specified in this subsection (2), all proceeds from the auction or raffle of rocky mountain bighorn sheep, rocky mountain goat, and shiras moose licenses shall be used by the division for the benefit of rocky mountain bighorn or desert sheep, rocky mountain goats, and shiras moose in Colorado, and all proceeds from the auction or raffle of mule and white-tailed deer, rocky mountain elk, and pronghorn licenses shall be used by the division for the benefit of mule and white-tailed deer, rocky mountain elk, and pronghorn in Colorado.

(b) If an auction or raffle is conducted by a nonprofit organization, the organization may retain up to twenty-five percent of the proceeds of the auction or raffle to cover auction or raffle costs and to fund projects of its own choosing that benefit wildlife in Colorado.

(c) The proceeds from the auctions and raffles shall be in addition to any moneys otherwise provided for the management of rocky mountain bighorn or desert sheep, rocky mountain goats, shiras moose, mule and white-tailed deer, rocky mountain elk, and pronghorn.

(3) The commission may promulgate rules pertaining to auction and raffle licenses, the conduct of the auctions and raffles, record-keeping requirements, the expenditure of proceeds, including requiring consultation by the division with advisory committees comprised of representatives of the participating nonprofit organizations prior to the expenditure of any proceeds, and any other rules necessary to implement the auction and raffle program.

33-4-116.5. Auction or raffle of deer, elk, and pronghorn licenses - use of proceeds. (Repealed)

33-4-117. Youth licenses - terminally ill hunters - special restrictions and privileges. (1) A person under the age of eighteen years may obtain a youth small game hunting license, issued pursuant to section 33-4-102 (1.4) (x), for a fee of one dollar upon showing a hunter education certificate as required by section 33-6-107 (8). The one-dollar fee includes the search and rescue fund surcharge imposed under section 33-1-112.5 (2) (a).

(2) Every person under sixteen years of age hunting with a youth small game hunting license shall at all times be accompanied by a person eighteen years of age or older as required by section 33-6-107 (3.5); except that a person of any age who purchases a small game hunting

license issued pursuant to section 33-4-102 (1.4) (f) is exempt from this restriction.

(3) (Deleted by amendment, L. 2003, p. 1031, § 7, effective July 1, 2003.)

(4) Youth big game licenses, entitling the holder to hunt deer, elk, or pronghorn, may be purchased by persons who are at least twelve years of age but under eighteen years of age for the fees specified in section 33-4-102 (1.4) (w). Said fees include the search and rescue fund surcharge imposed under section 33-1-112.5 (2) (a). Persons under sixteen years of age hunting deer, elk, or pronghorn must be accompanied by a person eighteen years of age or older as required by section 33-6-107 (4).

(4.5) The commission is authorized to establish a special licensing program for hunters eligible for a youth license under the provisions of this section, and to adopt rules that establish a hunting license preference for youth hunters. In connection with such a program the commission is also authorized, within its discretion, to establish a special licensing program for adult mentors of youth hunters and to adopt rules that establish a hunting license preference for such adult mentors.

(5) (Deleted by amendment, L. 2004, p. 83, § 1, effective August 4, 2004.)

(6) The commission is authorized to establish a special licensing program for hunters twenty-one years of age or younger who suffer from a terminal illness or a life-threatening disease or injury and to adopt rules that establish a hunting license preference for such hunters.

33-4-118. Hiking certificates. (Repealed)

33-4-119. Mobility-impaired hunters. (1) The commission is authorized to establish a special licensing program for mobility-impaired hunters.

(2) The commission is authorized to adopt appropriate rules that define "mobility-impaired" and establish a hunting license preference for the mobility-impaired.

33-4-120. Wildlife management public education advisory council - creation. (1) (a) The director of the division shall appoint nine individuals, at least three of which are from the western slope, to act as the wildlife management public education advisory council, referred to in this section as the council. The council shall have statewide responsibility and authority.

(b) (I) The council shall consist of the following members:

(A) Two sports persons who purchase big game licenses on a regular basis in Colorado, one of whom is from the western slope;

(B) Two sports persons who purchase fishing licenses on a regular basis in Colorado, one of whom is from the western slope;

(C) One person representing local counties in rural areas of Colorado, the economies of which have a substantial income from hunting or fishing recreation;

(D) One person representing municipalities in rural areas of Colorado, the economies of which have a substantial income from hunting or fishing recreation;

(E) One person representing the division of parks and wildlife;

(F) One person, who shall not be an employee of the division, with a substantial background in media and marketing operations; and

(G) One person representing agricultural producers.

(II) The council members appointed pursuant to sub-subparagraphs (A) and (B) of subparagraph (I) of this paragraph (b) shall be nominated by organized sports person groups with regional or statewide membership. The council members appointed pursuant to sub-subparagraphs (C) and (D) of subparagraph (I) of this paragraph (b) shall be nominated by organizations that represent the interests of such counties and municipalities.

(III) All members of the council shall be residents of the state of Colorado.

(IV) Every effort shall be made by the director to appoint members from all geographic areas of the state.

(c) A member shall serve for no more than two terms; except that no member representing the division of parks and wildlife shall be so limited. The appointments to the council shall be as follows:

(I) The initial terms for the two members representing sports persons who hunt shall be two years for one member of said group and four years for the other member of said group.

(II) The initial terms for the two members representing sports persons who fish shall be two years for one member of said group and four years for the other member of said group.

(III) The initial term length for the member representing the division shall be at the discretion of the director of the division.

(IV) The initial term length for the member representing counties and for the member representing agricultural producers shall be four years.

(V) The initial term length for the member representing municipalities and for the member with substantial experience in media and marketing operations shall be two years.

(VI) After the initial appointments, all subsequent appointments shall be for four years.

(d) Members of the council shall be compensated from the wildlife cash fund created in section 33-1-112 (1), for the reasonable and necessary expenses they incur in connection with their activities for the council.

(e) The council shall perform the following duties:

(I) Oversee the design of a comprehensive media-based public information program to educate the general public about the benefits of wildlife, wildlife management, and wildlife-related recreational opportunities in Colorado, specifically hunting and fishing;

(II) Prepare an operational plan for the director's approval no later than December 1, 1998;

(III) Expend moneys from the wildlife management public education fund in accordance with the operational plan approved by the director; except that all such expenditures shall be within the scope of the activities and funding levels authorized in such operational plan.

(f) Repealed.

(2) Nothing in this section shall be construed to be a mechanism to substitute funding that would otherwise be available for expenditure by the division, or to replace or reduce the obligation of the division to carry out public information programs under this title.

(3) Repealed.

ARTICLE 5

Protection of Fishing Streams

33-5-101. Legislative declaration. It is declared to be the policy of this state that its fish and wildlife resources, and particularly the fishing waters within the state, are to be protected and preserved from the actions of any state agency to the end that they be available for all time and without change in their natural existing state, except as may be necessary and appropriate after due consideration of all factors involved.

33-5-102. Projects affecting streams - submission of plans. No agency of the state, referred to in this article as an "applicant", shall obstruct, damage, diminish, destroy, change, modify, or vary the natural existing shape and form of any stream or its banks or tributaries by any type of construction without first notifying the commission of such planned construction. Such notice shall be on forms furnished by the commission and shall be submitted not less than ninety days prior to the date of the commencement of planned construction. The notice shall include detailed plans and specifications of so much of the project as may or will affect, as set forth in this section, any stream.

33-5-103. Examination of plans. The commission shall promptly examine and investigate all plans submitted to it pursuant to the provisions of section 33-5-102. If the commission determines that the plans and specifications are technically inadequate to accomplish the purposes set forth in section 33-5-101, it shall notify the applicant and may render aid in preparing adequate plans and specifications.

33-5-104. Notice by commission. Within thirty days after the receipt of any plans submitted to it, the commission shall notify the applicant if the planned construction or project will adversely affect the stream involved. If an applicant is notified that the planned construction will adversely affect any stream involved, the commission shall accompany such notice with recommendations or alternative plans which will eliminate or diminish such adverse effect.

33-5-105. Arbitration. (1) If the commission notifies an applicant that the construction will adversely affect the stream involved, the applicant, within fifteen days after receiving the recommendations and alternatives of the commission, shall notify the commission if it refuses to

modify its plans in accordance with such recommendations or alternatives.

(2) Upon receipt of such refusal, the commission shall determine if it desires to have the matter arbitrated. Within ten days after an affirmative decision and after notice to the other agency or agencies involved, the commission shall notify, in writing, the governor. No further action shall be taken to advance the planned construction until the governor issues a written decision within thirty days after receipt of written notice which shall be binding on all parties concerned, and there shall be no judicial review thereof.

33-5-106. Vested water rights. This article shall not operate or be so construed as to impair, diminish, or divest any existing or vested water rights acquired under the laws of this state or the United States, nor shall this article apply in emergency situations.

33-5-107. Irrigation projects exempt. This article shall not apply to any irrigation project.

ARTICLE 5.5

Fish Health Board

33-5.5-101. Fish health board - created. (1) There is hereby created and established in the division a fish health board, which shall consist of five members, each of whom shall be appointed no later than sixty days after June 7, 1991. The members of the board shall be as follows:

(a) One member who is not a commercial aquaculturist and who may be an employee of the department of agriculture, appointed by the commissioner of agriculture;

(b) One member who may be an employee of the division, appointed by the director;

(c) Two members who are engaged in the private business of aquaculture and who shall, insofar as is possible, represent the various segments of the aquaculture industry and the various geographic areas of the state, appointed by the commissioner of agriculture; and

(d) One member who is an employee of the United States fish and wildlife service, appointed by the regional director thereof.

(2) The term of office of said members shall be three years; but of the members first appointed to the board, two members shall be appointed for one-year terms, two members shall be appointed for two-year terms, and the remaining member shall be appointed for a three-year term. The assignment of such initial terms shall be made by the director. Each member shall serve until his or her successor has been appointed and qualified, and any member shall be eligible for reappointment. The appointing entity shall fill any vacancy by appointment for the

remainder of an unexpired term. The commissioner of agriculture and the director of the division shall be ex officio nonvoting members of the board. Board members shall serve without compensation except for actual and necessary traveling expenses. The board shall meet at least once each year and additionally as necessary.

(3) The fish health board shall annually elect a chairman and a vice-chairman, each of whom shall serve at the pleasure of the board.

(4) A majority of the fish health board shall constitute a quorum, and, if a quorum is present, in person or by telephone, the board may act upon a vote of a majority of those present.

(5) The fish health board shall constitute a "public entity" and each member and employee of the board shall constitute a "public employee" within the meaning of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

(6) The fish health board shall exercise its powers and perform its duties and functions specified in this article under the department and the executive director thereof as if the same were transferred to the department by a **type 2** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

33-5.5-102. Duties of the fish health board. (1) The fish health board shall review or initiate and consider, prior to presentation to the commission for adoption, every rule which is to regulate or control, or otherwise relates to, fish health, the spread of aquatic disease within private aquaculture facilities or cultured aquatic stock, or the importation into the state or the distribution of any exotic aquatic species.

(2) After considering any proposed rule, the fish health board shall vote to approve or disapprove the rule.

(3) The proposed rules approved by the fish health board shall be sent to the commission with the recommendation to adopt. The commission shall, through its normal regulatory review procedure, timely review the rule and act either to adopt or to decline to adopt the rule. In the event the commission declines to adopt the rule, it shall convey its decision to the board, along with an explanation of the reason for its decision.

(4) The proposed rules disapproved by the fish health board shall not be forwarded to the commission unless the director determines that a situation or condition exists which threatens to have a serious impact on existing aquatic populations and that the proposed regulation should be considered by the commission in spite of the recommendation of the fish health board. The director shall then forward the rule to the commission along with a recommendation of disapproval from the fish health board.

(5) Nothing in this section shall be construed to diminish or supersede the authority of the division or the commission to regulate or manage wild populations of aquatic organisms in the waters of the state or in facilities controlled or managed by the division or by the United States fish and wildlife service.

(6) The fish health board shall review any orders for the destruction of aquatic organisms or quarantines of aquaculture facilities which last beyond thirty days, and all such orders shall be conditioned upon the board's approval; except that destruction orders may be approved by the

director of the division upon a determination that a situation exists which threatens imminent danger to existing aquatic populations or to human health and safety, and that no more reasonable means exist to control the condition.

(7) Destruction of aquatic organisms or quarantines shall be done in accordance with applicable regulations of the division.

(8) The board shall periodically review division rules relating to destruction or quarantine of aquaculture stock or facilities and recommend appropriate changes to the commission.

ARTICLE 6

Law Enforcement and Penalties - Wildlife

PART 1

GENERAL PROVISIONS

33-6-101. Powers and duties of officers. (1) Every Colorado wildlife officer or other commissioned officer of the division shall enforce the provisions of articles 1 to 6 of this title. Every other peace officer, as defined in section 33-1-102 (32), may assist the Colorado wildlife officers in the enforcement of articles 1 to 6 of this title. Each such officer has the full power and authority to arrest any person who he or she has probable cause to believe is guilty of a violation of articles 1 to 6 of this title, and, in accordance with the constitutions and laws of the United States and the state of Colorado, to open, enter, and search all places of concealment where he or she has probable cause to believe wildlife held in violation of articles 1 to 6 of this title is to be found or where other material evidence relating to a violation of articles 1 to 6 of this title is to be found and to seize the same. Each such officer shall have the authority to secure and execute search or arrest warrants.

(2) Any peace officer, as defined in section 33-1-102 (32), empowered with enforcing the provisions of articles 1 to 6 of this title has the authority to go onto any lands or waters, public or private, to demand of any person, who he has reason to believe has exercised the benefits conferred by any license provided for in articles 1 to 6 of this title, the immediate production of such license and any wildlife in possession; and such peace officer shall have the right and opportunity to inspect such licenses and wildlife.

(3) When protection of the public health, safety, or welfare requires, any officer having the power to enforce the provisions of articles 1 to 6 of this title shall have the authority to make use of any motor vehicle or other means of transportation, whether privately or publicly owned, to aid him in the performance of his duties. Payment of reasonable compensation shall be made for the use of such motor vehicle or other means of transportation.

(4) Repealed.

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.

(2) (a) Any personal property subject to seizure, confiscation, and forfeiture or destruction under the provisions of this section, which is seized as a part of or incident to a criminal proceeding for violation of the provisions of articles 1 to 6 of this title and for which disposition is not provided by another statute of this state, shall be disposed of as provided in this section.

(b) (I) The division shall be in violation of this section if it seizes any personal property that is not part of or incident to a criminal proceeding for violation of articles 1 to 6 of this title and does not return such property on demand.

(II) If the division violates subparagraph (I) of this paragraph (b) or any other provision of law when seizing personal property, the division shall be charged one hundred dollars per day per violation plus any attorney's fees incurred by the owner of the property.

(3) Any such property, the possession of which is illegal and which in the opinion of the court having jurisdiction over the criminal proceeding is not properly the subject of a sale, may be destroyed pursuant to a warrant for the destruction of personal property issued by the court and directed to the division. The court shall stay the execution of any such warrant during the period in which the property is used as evidence in any pending criminal or civil proceeding.

(4) Except as otherwise provided in this section, the court may order any such property sold by the division in the manner provided for sales on execution. The proceeds of the sale shall be applied as follows:

(a) To the fees and costs of removal and sale;

(b) To the payment of the state's costs on such action; and

(c) The balance, if any, or any portion thereof not otherwise distributed pursuant to this paragraph (c), to the wildlife cash fund. Instead of being deposited in the wildlife cash fund, such balance or any portion thereof may be transmitted, upon order of the court, as follows:

(I) To the seizing agency, if the court finds that the proceeds can be used by such agency;

(II) To any person who suffers bodily injury or property damage as a result of the action which constitutes the violation, if said person petitions the court therefor.

(5) In lieu of ordering the sale or destruction of such property, the court may, if it finds that it can be used by the agency which seized it, order it delivered to the agency for such use.

(6) The division shall not undertake any seizure of property pursuant to this section unless the division has complied with parts 3 and 5 of article 13 of title 16, C.R.S., as applicable.

33-6-103. Prosecution of offenses. If the possession, use, importation, exportation, transportation, storage, sale, or offering or exposing for sale of wildlife is prohibited or restricted by articles 1 to 6 of this title or by rule or regulation of the commission, the prohibition or restriction, where not otherwise specifically provided, shall extend to and include every part of such wildlife, and a violation as to each animal or part thereof shall be a separate offense. Two or more offenses may be charged in the same complaint, information, or indictment, and proof as to part of an animal shall be sufficient to sustain a charge as to the whole of it. Violations as to any number of animals of the same kind may be charged in the same count and punished as a separate offense as to each animal.

33-6-104. Imposition of penalty - procedures. (1) Any person who violates any of the provisions of articles 1 to 6 of this title or any rule of the commission that does not have a specific penalty listed is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of fifty dollars, a surcharge as described in section 24-33.5-415.6, C.R.S., and an assessment of five license suspension points.

(2) At the time that any person is charged with violating any misdemeanor provisions of articles 1 to 6 of this title or any rule of the commission, the officer shall issue a summons and complaint to the alleged offender or, in the case of a violation for which a fine of a fixed amount is prescribed, may give the alleged offender an opportunity to voluntarily pay the fine and surcharge in the form of a penalty assessment. Penalty assessments shall not be issued for violations for which minimum and maximum fines have been established. The penalty assessment notice given to the alleged offender shall contain the information required in and be in the form of a summons and complaint and shall specify in dollars the amount of the penalty to be assessed for the alleged offense and the amount of the surcharges to be collected pursuant to sections 24-4.2-104 (1) and 24-33.5-415.6, C.R.S. If the alleged offender accepts such notice and pays the fine and the surcharges entered thereon to the division within fifteen days of issuance of the notice, such acceptance and payment shall constitute an acknowledgment of guilt by such person of the violation set forth in the penalty assessment notice. Any person who accepts a penalty assessment notice but who does not furnish satisfactory evidence of identity or who the officer has reasonable and probable grounds to believe will disregard a written promise to pay the specified fine and surcharges may be taken by the officer to the nearest known post-office facility and be required to remit the amount of the specified fine and surcharges to the division immediately by mail in United States currency or other legal tender by money order or personal check. Refusal or inability to remit the specified fine and surcharges by mail when required shall constitute a refusal to accept a penalty assessment notice. The officer shall advise the person arrested of the license suspension points to be assessed in accordance with section 33-6-106. Checks tendered by the violator to and accepted by the division and on which payment is received by the division shall be deemed sufficient receipt. If the fine and surcharges are not so paid, then the officer who issued the penalty assessment notice shall docket the summons and complaint with a court of competent jurisdiction for appearance by the person to answer the charges therein contained at such time and place as is specified in the summons and complaint.

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 a wildlife officer of the division of parks and 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) When an arrest has been made or the citation for any wildlife offense has been issued by a park officer of the division of parks and wildlife 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.

(3) The provisions of the "Colorado Crime Victim Compensation Act", article 4.1 of title 24, C.R.S., shall not apply to articles 1 to 6 of this title, and the costs imposed by said act shall not be levied on criminal actions for violations of articles 1 to 6 of this title.

(4) No fine, penalty, or judgment assessed or rendered under the provisions of articles 1 to 6 of this title shall be suspended, reduced, or remitted otherwise than as expressly provided by law.

(5) All moneys collected by the division as surcharges on penalty assessments issued pursuant to section 33-6-104 shall be transmitted to the court administrator of the judicial district in which the offense was committed for credit to the victims and witnesses assistance and law enforcement fund established in that judicial district.

33-6-106. Suspension of license privileges - repeal. (1) The commission, or a hearing officer who has been delegated authority by the commission, has the exclusive authority to suspend the privilege of applying for, purchasing, or exercising the benefits conferred by any or all licenses issued by the division for a period not to exceed five years, except as otherwise provided in articles 1 to 6 of this title, if a person:

(a) Has been convicted of violations of articles 1 to 6 of this title totaling twenty or more points in any consecutive five-year period;

(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 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.

(II) (Deleted by amendment, L. 2003, p. 1940, § 4, effective May 22, 2003.)

(c) Has been convicted of any violation of title 18, C.R.S., that was committed while hunting, trapping, fishing, or engaging in a related activity or of any federal wildlife violations within Colorado and such federal convictions, individually or when combined with convictions specified in paragraph (a) of this subsection (1), total twenty or more points;

(d) Is found to meet the requirements for reciprocal suspension as provided in the "Wildlife Violator Compact", part 26 of article 60 of title 24, C.R.S.;

(e) Has been convicted of any violation under section 33-6-114.5 (2), (3), (4), (5), or (6).

(2) For the purposes of license suspension under subsection (1) of this section, the payment of a penalty assessment, a court conviction, a plea of nolo contendere, the acceptance of a deferred or suspended sentence by the court, the adjudication of a juvenile as delinquent for any violation of this title that would have resulted in a conviction if prosecuted as an adult, or forfeiture of bail shall be deemed a conviction.

(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 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 a regional or area office of the division nearest to the residence of the respondent or, in the case of nonresidents, in such other 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.

(4.5) With respect to any suspension of the license of a resident pursuant to the provisions of a compact with another state, territory, or province for failure to comply with the terms of a summons, complaint, summons and complaint, penalty assessment notice, or other official notice of an alleged wildlife violation issued by a wildlife officer or other authorized peace officer in such other state, territory, or province, the hearing shall be conducted by the commission at the time and place of a regularly scheduled meeting without the need for any prior hearing by the hearing examiner. The commission shall have the authority with respect to any such suspension to suspend the resident's privileges until satisfactory evidence of compliance with the terms of the summons, complaint, summons and complaint, penalty assessment notice, or other official notice of violation has been furnished to the division.

(5) Notice of any resulting suspension shall be sent to the person by 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.

(6) Any person whose license privileges have been suspended shall not be entitled to purchase, apply for, or exercise the benefits conferred by any license issued by the division until

such person's suspension has expired. Any person who violates this subsection (6) is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of five hundred dollars. Conviction under this subsection (6) shall result in an automatic two-year extension of the existing suspension added to the end of the original suspension unless such person was under a lifetime suspension when such violation occurred. If a person is under a lifetime suspension and violates this subsection (6), such person shall be guilty of a misdemeanor and shall be punished by a fine of not less than one thousand dollars nor more than ten thousand dollars or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

(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.

(8) If a person's privilege of applying for, purchasing, or exercising the benefits conferred by any or all licenses issued by the division is suspended three or more times pursuant to this section, such person shall receive a lifetime suspension of such privileges.

(9) (a) A person may petition the commission to end a suspension once every five years either:

(I) After half of a suspension of at least ten years but less than a lifetime has elapsed; or

(II) After fifteen years of a lifetime suspension has elapsed.

(b) If a person petitions the commission to end a suspension, the commission shall hold a hearing to determine whether to end the suspension within one hundred twenty days after receiving the petition; except that a person may petition the commission no more than three times. Upon receiving a fourth or subsequent petition, the commission may deny the petition without a hearing.

(c) (I) The commission may end a suspension if:

(A) The person is unlikely to violate this article again;

(B) The person has not been convicted of or pled guilty or nolo contendere to any violation of articles 1 to 6 of this title after the suspension was imposed; and

(C) The suspension is the person's first in Colorado.

(II) In determining whether to end a suspension under this subsection (9), the commission may consider whether the person has been convicted of or pled guilty or nolo contendere to any misdemeanor or felony.

(d) If a suspension is ended, the commission may require the petitioner to:

(I) Pay a reinstatement fee, not to exceed three hundred dollars;

(II) Perform service, not to exceed forty hours, under the division's direction on wildlife or state park projects; or

(III) Attend a hunter's safety or hunter outreach course.

(e) The commission shall hold a hearing required by this subsection (9) at one of its regularly scheduled meetings but not more than quarterly.

(f) This subsection (9) is repealed, effective July 1, 2017. Prior to the repeal, the commission shall review the petition program under this subsection (9) to determine whether the number of petitions granted justifies the continuance of the program. Based upon this review, the

commission shall make recommendations to the general assembly whether to continue this subsection (9) by October 1, 2016.

33-6-107. Licensing violations - penalties - rule. (1) (a) Except as otherwise provided in articles 1 to 6 of this title or by rule of the commission, a person shall not procure or use more than one license of a certain type in a calendar year. A person who violates this subsection (1) 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 dollars and an assessment of fifteen license suspension points.

(b) A license procured in violation of this subsection (1) is void.

(2) (a) Any person who makes a false statement or provides false information in connection with applying for or purchasing a license, or any license agent who knowingly uses or accepts false information in connection with selling or issuing a license, is guilty of a misdemeanor and, upon conviction, shall be punished by the following fines:

(I) For each license that is not a big game license, a fine that is equal to twice the cost of the most expensive license for such species and ten license suspension points shall be assessed.

(II) For each big game license, a fine that is equal to twice the cost of the most expensive license for such species and an assessment of fifteen license suspension points shall be assessed.

(b) All licenses obtained with false information are void.

(3) Except as otherwise provided in articles 1 to 6 of this title or by rule 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, shall be punished by a fine and an assessment of license suspension points as follows:

(a) For each license that is not a big game license, the fine shall be equal to twice the cost of the most expensive license for such species and ten license suspension points shall be assessed.

(b) For each big game license, fifteen license suspension points and a fine that is equal to twice the cost of the most expensive license for such species shall be assessed.

(3.5) Except as provided in subsection (9) of this section, it is unlawful for any person under sixteen years of age to hunt wildlife with a youth license issued pursuant to section 33-4-102 (1.4) (x) unless such person is at all times personally accompanied by, and in voice and reasonable visual contact with, a person eighteen years of age or older who holds a valid hunter education certificate or who was born before January 1, 1949. Any person who violates this subsection (3.5) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of fifty dollars and an assessment of five license suspension points.

(4) It is unlawful for any person under twelve years of age to hunt or take big game, and it is unlawful for persons between the ages of twelve and fifteen years of age to hunt or take big game except when at all times personally accompanied by, and in voice and reasonable visual contact with, a person eighteen years of age or older who holds a valid hunter education

certificate or who was born before January 1, 1949. 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.

(5) Any person who possesses live wildlife in this state and who is required by commission rule or regulation to have a license for such possession shall have the required license at the site where the wildlife is kept. Any person who violates this subsection (5) 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.

(6) A person sixteen years of age or over who fishes for or takes fish, amphibians, mollusks, or crustaceans in this state shall have a proper and valid fishing license on his or her person. Persons under sixteen years of age are not required to have a fishing license and shall be entitled to the full bag or possession limit set by the commission. A person who violates this subsection (6) 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 to alter, transfer, sell, loan, or assign a lawfully acquired license to another person, or to use another person's lawfully acquired license. A 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 licenses so used are void.

(8) (a) Unless otherwise permitted by commission rule, it is unlawful for any person born on or after January 1, 1949, to purchase or obtain any hunting license, hunt, or trap unless the person has been issued a hunter education certificate by the division, attesting to the person's successful completion of a division-certified hunter education course taught by a division-certified instructor or equivalent education and training recognized by the division under paragraph (b), (c), or (e) of this subsection (8) or subsection (10) of this section.

(b) In order to increase hunter recruitment and retention, the commission may promulgate a rule establishing alternative requirements to obtain a certificate of hunter education. The alternatives may include: Options to demonstrate knowledge of hunting, safety, and ethics; course delivery options; issuing temporary or apprentice certificates of hunter education; and an option to test out of the hunter education course.

(c) The commission shall promulgate a rule allowing veterans, including active-duty, reserve-duty, or national guard personnel, to obtain a hunter education certificate without attending a hunter education course if the veteran successfully passes a test-out option as developed by the commission. To qualify, a veteran must be discharged under honorable conditions.

(d) Unless the certificate of hunter education has been verified by the division, any person required to obtain a certificate of hunter education shall have the certificate on his or her person while hunting, trapping, or taking wildlife.

(e) 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 before January 1, 1985, and any valid temporary hunter education certificate issued by the division, and the division may recognize the hunter education programs of or certificates of other states or countries as being sufficient for the purposes of purchasing a

hunting license in Colorado.

(f) Any person who violates this subsection (8) or any rule implementing 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, any member of such person's family, or 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 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 kill skunks or rattlesnakes when necessary to protect life or property. The pelts or hides of any mammals taken under this subsection (9) may be transferred, possessed, traded, bartered, or sold by a person who holds an appropriate small game license.

(10) (a) The division may issue an apprentice certificate of hunter education to a person who:

(I) Is at least ten years of age;

(II) Is being taught to hunt by a mentor who is eighteen years of age or older and who holds a valid hunter education certificate or who was born before January 1, 1949; and

(III) Complies with any requirements established by rule of the commission.

(b) While hunting, a person issued an apprentice certificate of hunter education shall be personally accompanied by, in voice contact with, and in visual contact with a mentor who is eighteen years of age or older and who holds a valid hunter education certificate or who was born before January 1, 1949.

(c) An apprentice certificate of hunter education:

(I) May be used in lieu of a certificate of hunter education issued under subsection (8) of this section to purchase or obtain a license to take wildlife; and

(II) Is valid for no more than one year after issuance.

33-6-108. Possession as prima facie evidence. The possession of wildlife shall be prima facie evidence that the person having such possession is engaged or has been engaged in hunting, fishing, or trapping.

33-6-109. Wildlife - illegal possession. (1) It is unlawful for any person to hunt, take, or have in 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.

(2) It is unlawful for any person to have in his possession in Colorado any wildlife, as defined by the state or country of origin, that was acquired, taken, or transported from such state or country in violation of the laws or regulations thereof.

(2.5) This section does not apply to the illegal possession of live native or nonnative fish or viable gametes (eggs or sperm) which is governed by section 33-6-114.5.

(3) A person who violates subsection (1) or (2) of this section is guilty of a misdemeanor and, depending upon the wildlife involved, shall be punished upon conviction by a fine or imprisonment, or both, and license suspension points or suspension or revocation of license privileges as follows:

(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. Upon conviction, the commission may suspend any or all license privileges of the person for a period of from one year to life.

(b) For each bald eagle, golden eagle, rocky mountain goat, desert bighorn sheep, American peregrine falcon, or rocky mountain 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. Upon conviction, the commission may suspend any or all license privileges of the person for a period of one year to life. A person who possesses all or a part of a bald eagle or golden eagle shall not be in violation of this section if the possession is authorized by 50 CFR 22.

(c) For each elk, bear, moose, or mountain lion, a fine of one thousand dollars and an assessment of fifteen points.

(d) For each pronghorn, 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 (c) or (d) of this subsection (3) where any combination of three or more animals are taken or possessed, a minimum fine per animal as set forth in such 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.

(3.4) (a) In addition to the criminal penalties listed in subsection (3) of this section, there shall be assessed a further penalty in the following amount for each of the following big game animals illegally taken:

(I) For each bull elk with at least six points on one antler beam, ten thousand dollars;

(II) For each mule deer buck with an inside antler spread of at least twenty-two inches, ten thousand dollars;

(III) For each whitetail deer buck with an inside antler spread of at least eighteen inches, ten thousand dollars;

(IV) For each bull moose, ten thousand dollars;

(V) For each bighorn sheep with a horn length of at least one-half curl, twenty-five thousand dollars;

(VI) For each mountain goat, ten thousand dollars;

(VII) For each pronghorn antelope with a horn length of at least fourteen inches, four thousand dollars.

(b) (I) Notwithstanding the provisions of section 24-4.2-104 (1) (b) (II), C.R.S., no victims and witnesses assistance and law enforcement fund surcharge shall be levied against the additional amount of the penalty imposed under this subsection (3.4). The victims and witnesses assistance and law enforcement fund surcharge shall only be levied against the amount of the fine imposed under subsection (3) of this section.

(II) Notwithstanding the provisions of section 33-6-105, all moneys collected as additional penalties under this subsection (3.4) shall be transmitted to the state treasurer, who shall credit such moneys to the Colorado town, city, county, or city and county where the arrest for the offense was made or the citation for the offense was issued. Such additional penalties may be used to further law enforcement or wildlife related programs.

(4) It is unlawful for any person to have in his possession in Colorado any nonnative or exotic wildlife except in accordance with the rules and regulations of the commission. Any person who violates this subsection (4) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than two hundred fifty dollars nor more than one thousand dollars. In addition, such person shall be assessed ten suspension points per incident for possessing an animal on the prohibited species list and five suspension points per incident for possessing any other nonnative or exotic wildlife species.

33-6-110. Division action to recover possession and value of wildlife unlawfully taken. (1) The division may bring and maintain a civil action against any person, in the name of the people of the state, to recover possession or value or both possession and value of any wildlife taken in violation of articles 1 to 6 of this title. A writ of replevin may issue in such an action without bond. No previous demand for possession shall be necessary. If costs or damages are adjudged in favor of the defendant, the same shall be paid out of the wildlife cash fund. Neither the pendency of such civil action nor a criminal prosecution for the same taking shall be a bar to the other; nor shall anything in this section affect the right of seizure under other provisions of articles 1 to 6 of this title. The following shall be considered the minimum value of the wildlife unlawfully taken or possessed and may be recovered in addition to recovery of possession of the wildlife:

(a) For each eagle, member of an endangered species, rocky mountain goat, moose, rocky mountain bighorn sheep, or lynx

$ 1,000

. . . . . (b) For each elk or member of a threatened species or subspecies

$ 700

. . . . . (c) For each pronghorn, deer, black bear, or mountain lion

$ 500

(d) For each raptor not covered by paragraph (a) or (b) of this subsection (1) and each wild turkey

$ 200

(e) For each member of nongame or small game species or subspecies not covered by paragraph (a) or (b) of this subsection (1)

$ 100

(f) For each game fish not covered by paragraph (a) or (b) of this subsection (1)

$ 35

(2) No verdict or judgment recovered by the state in such an action shall be for a sum less than the sum fixed in this section but may be for such greater sum as the evidence may show the value of the wildlife to have been when living and uninjured.

33-6-111. Inspection of license and wildlife - check stations - failure to tag - eluding an officer. (1) Any person who hunts, traps, fishes, or possesses wildlife for any purpose shall produce all applicable licenses issued to him by the division, all firearms, all records required to be maintained by articles 1 to 6 of this title or by any rule or regulation of the commission, all wildlife, and any personal identification documents when requested to do so by a district wildlife manager or other peace officer, as defined in section 33-1-102 (32) empowered to enforce articles 1 to 6 of this title. Any person who refuses to permit inspection of such personal identification documents, licenses, firearms, records, or wildlife is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of fifty dollars and an assessment of five license suspension points.

(2) The division is authorized to establish check stations, as needed, at locations within the state to aid in the management of wildlife and the enforcement of articles 1 to 6 of this title and the rules or regulations of the commission. Persons who encounter check stations, whether in possession of wildlife or not, shall stop and produce licenses issued by the division, firearms, and wildlife for inspection by division personnel. 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 five license suspension points.

(3) Any person who fails to void his license or carcass tag as required by commission rule or regulation 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.

(4) It is unlawful for any person to elude or attempt to elude by any means a Colorado wildlife officer or other peace officer after having received a visual or audible signal such as a red or red and blue light, siren, or voice command directing him to stop. Any person who violates this subsection (4) 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 and an assessment of ten license suspension points. In addition, the court shall require the person to pay for any damages caused to any public or private real or personal property damaged while eluding an officer.

33-6-112. Evidence of wildlife sex and species. The commission may establish by rules or regulations requirements for preserving the evidence of sex or species or both sex and species of wildlife taken under the provisions of articles 1 to 6 of this title. It is unlawful for any person to possess any wildlife or considerable portion thereof in violation of such rules or regulations. For the purposes of this section, the evidence of species or sex may be one or more of the following: Head, antlers, horns, testes, scrotum, udder, spurred leg, wing, skin, or plumage in sufficient amount to allow the evidence of species or sex to be determined by ordinary inspection. Any person who violates this section is guilty of a misdemeanor and, upon conviction thereof, shall, with respect to big game, be punished by a fine of one hundred dollars and an assessment of ten license suspension points or shall, with respect to all other wildlife, be punished by a fine of fifty dollars and an assessment of five license suspension points.

33-6-113. Illegal sale of wildlife. (1) (a) Except as otherwise provided in articles 1 to 6 of this title or by rule of the commission, it is unlawful for any person to knowingly sell or purchase, or knowingly offer for sale or purchase, wildlife or to solicit another person in the illegal hunting or taking of wildlife for the purposes of monetary or commercial gain or profit.

(b) 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 18-1.3-401, C.R.S. Upon such conviction, the commission may suspend any or all wildlife license privileges of the person for a minimum of one year to life.

(b) With respect to all other wildlife, 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.

33-6-113.5. Illegal businesses on division property. (1) It is unlawful to provide goods or services for compensation on property owned or managed by the division unless permitted by commission rule.

(2) A 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.

33-6-114. Transportation, importation, exportation, and release of wildlife. (1) It is unlawful for any person to transport or to export any wildlife or portion thereof within or from this state except in accordance with the rules or regulations of the commission.

(2) It is unlawful for any person to import any live wildlife into this state unless an importation license is obtained prior to importation, a current and valid health certificate accompanies each shipment, and such importation is in accordance with the rules and regulations of the commission.

(3) It is unlawful for any person to release, or knowingly allow the escape of, any live native or nonnative or exotic wildlife in Colorado except in accordance with the rules and regulations of the commission.

(3.5) This section does not apply to the transportation, importation, exportation, and release of live native or nonnative fish or viable gametes (eggs and sperm) which are governed by section 33-6-114.5.

(4) Any person who violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of fifty dollars for violations involving native wildlife and by a fine of not less than two hundred fifty dollars nor more than one thousand dollars for violations involving nonnative or exotic wildlife. In addition, for violations involving either native wildlife or nonnative or exotic wildlife, five license suspension points per incident may be assessed by the division against an individual's license privileges.

(5) This section shall not apply to aquatic nuisance species, which shall be governed by article 10.5 of this title.

33-6-114.5. Native and nonnative fish - possession, transportation, importation, exportation, and release - penalties. (1) It is unlawful for any person to possess, transport, import, or export any live native or nonnative fish or viable gametes (eggs or sperm) except in accordance with the rules and regulations of the commission.

(2) It is unlawful for any person to possess live native or nonnative fish or viable gametes (eggs or sperm) which are infected with any disease designated by rule and regulation of the commission as a disease detrimental to existing fish populations or habitats unless the division is notified within two business days after the discovery of the presence of such a disease.

(3) It is unlawful for any person to possess live native or nonnative fish or viable gametes (eggs or sperm) which are of a species designated by rule and regulation of the commission as detrimental to existing fish populations or habitats.

(4) It is unlawful for any person to import any live native or nonnative fish or viable gametes (eggs or sperm) into this state unless, in accordance with the rules and regulations of the commission, both a current and valid importation license and health certificate are obtained prior to importation.

(5) It is unlawful for any person to release any live native or nonnative fish or viable gametes (eggs or sperm) in this state except in accordance with the rules and regulations of the

commission.

(6) It is unlawful for any person to transport, import, export, or release any live native or nonnative fish or viable gametes (eggs or sperm) in violation of any quarantine order or disposition plan issued in accordance with any provisions of articles 1 to 6 of this title or any rule or regulation of the commission.

(7) (a) Any person who violates subsection (2), (3), or (4) of this section is guilty of a class 1 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than five hundred dollars nor more than five thousand dollars.

(b) Any person who violates subsection (5) or (6) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than five hundred dollars nor more than five thousand dollars. Such person is liable for all damages and costs associated with such unlawful release, including, but not limited to, the costs of eradication or removal.

(c) Repealed.

(8) This section shall not apply to aquatic nuisance species, which shall be governed by article 10.5 of this title.

33-6-115. Theft of wildlife - tampering with trap. (1) It is unlawful for any person to take from another person, without his permission, any wildlife lawfully acquired and possessed by him. Any person who violates this subsection (1) 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 five hundred dollars and an assessment of twenty license suspension points. Any person having wildlife taken from him unlawfully as prohibited in this subsection (1) shall be entitled to compensation as ordered by the court.

(2) It is unlawful for any person to interfere with, disturb, remove, or otherwise tamper with any trap, snare, or other device that has been legally set. Any person who violates this subsection (2) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of two hundred dollars and an assessment of ten license suspension points.

33-6-115.5. Hunting, trapping, and fishing - intentional interference with lawful activities. (1) No person shall willfully prevent or interfere with the lawful participation of any individual in the activity of hunting, trapping, or fishing in accordance with this article.

(2) A person commits intentional interference with lawful hunting, trapping, and fishing activities if he:

(a) Acts with intent to alarm, distract, or frighten prey and causes prey to flee by:

(I) Use of any natural or artificial source of noise or light;

(II) Giving chase to prey on foot or by use of any vehicle;

(III) Throwing objects or making movements;

(b) Intentionally harasses any person lawfully participating in the activity of hunting, trapping, and fishing by use of threats or actions;

(c) Erects barriers with the intent to deny ingress to lawfully designated hunting, trapping, and fishing areas;

(d) Intentionally interjects himself into the line of fire;

(e) Engages in any other conduct with the intent to disrupt or prevent lawful hunting, trapping, and fishing activities.

(3) Any person who violates this section commits a misdemeanor and, upon conviction, shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars and an assessment of twenty license suspension points.

(4) Any person convicted of a violation of this section shall be liable for all damages incurred by the individual whose lawful activity was obstructed and for all court costs of prosecution.

(5) Nothing in this section shall limit the actions of law enforcement officers and personnel of the division of parks and wildlife in the performance of their official duties nor apply to landowners, tenants, or leaseholders exercising their legal rights to the enjoyment of land, including, but not limited to, farming, ranching, and restricting trespass, nor will anything in this section be construed to prohibit any incidental interference arising from the lawful use of land or water.

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.

(2) It is unlawful for any person to post, sign, or indicate that any public lands within this state, not held under an exclusive control lease, are privately owned lands.

(3) 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 twenty license suspension points.

33-6-117. Willful destruction of wildlife - legislative intent. (1) (a) Except as is otherwise provided in articles 1 to 6 of this title or by rule of the commission, it is unlawful for a person:

(I) To hunt or take, or to solicit another person to hunt or take, 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;

(II) To intentionally abandon the carcass or body of taken wildlife; or

(III) To take and intentionally abandon wildlife.

(b) A person who violates this subsection (1), with respect to:

(I) Big game, eagles, and endangered species, commits a class 5 felony and shall be punished as provided in section 18-1.3-401, 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 18-1.3-401 (1) (a) (III), C.R.S. Upon such conviction, the commission shall assess twenty license suspension points and suspend the wildlife license privileges for one year to life of the person convicted.

(II) All other wildlife species, 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.

(2) The purpose and intent of this section is to protect the wildlife of this state from wanton, ruthless, or wasteful destruction or mutilation for their heads, hides, claws, teeth, antlers, horns, internal organs, or feathers, from being taken and abandoned, or any or all of the foregoing, and the provisions of this section shall be so construed.

33-6-118. Killing of big game animals in contest prohibited. It is unlawful for any person to advertise, conduct or offer to conduct, or otherwise promote or participate in any contest or competition involving two or more persons and the monetary payment or awarding of any other prize when the object of the contest or competition involves the killing of any big game or the display for comparison of any big game or any part thereof. Certificates issued by organizations solely for registration and recognition of animals legally taken are not prohibited. Any person who violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of five hundred dollars and an assessment of twenty license suspension points.

33-6-119. Pursuit of wounded game - waste of edible game wildlife - use of wildlife as bait. (1) (a) Except as provided in section 33-6-116 (1), it is unlawful for a person who shoots at, wounds, or may have wounded game wildlife to fail to make a reasonable attempt to locate the game wildlife suspected of injury and take it into his or her possession. A person who violates this paragraph (a) is guilty of a misdemeanor and, upon conviction thereof, shall, with respect to big game, be punished by a fine of one hundred dollars and an assessment of fifteen license suspension points or shall, with respect to small game, be punished by a fine of fifty dollars and an assessment of fifteen license suspension points.

(b) If wounded game goes onto private property, the person who wounded the game shall make a reasonable attempt to contact the landowner or person in charge of such land before pursuing the wounded game.

(c) If the hunter is unaware of the location of wildlife after shooting at it, failing to go immediately to the location of such wildlife when the shot was fired is not a reasonable attempt to locate game.

(2) Except as otherwise provided in articles 1 to 6 of this title or by rule of the commission, it is unlawful for a person to fail to reasonably attempt to dress or care for and provide for human consumption the edible portions of game wildlife. A person who violates this subsection (2) is guilty of a misdemeanor and, upon conviction thereof, shall, with respect to big

game, be punished by a fine of three hundred dollars and an assessment of fifteen license suspension points or shall, with respect to all other game wildlife, be punished by a fine of one hundred dollars and an assessment of ten license suspension points.

(3) It is unlawful for any person to use wildlife as bait unless otherwise provided by rule or regulation of the commission. 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.

33-6-120. Hunting, trapping, or fishing out of season or in a closed area. (1) It is unlawful for any person to fish, trap, hunt, or take any wildlife outside of the season established by or in an area closed by commission rule. Any person who violates this section is guilty of a misdemeanor and, upon conviction, shall be punished by a fine and an assessment of license suspension points as follows:

(a) For each incident that is not related to the hunting or taking of a big game animal, the fine shall be equal to twice the cost of the most expensive license for such species and ten license suspension points shall be assessed;

(b) For the hunting or taking of big game, fifteen license suspension points and a fine that is equal to twice the cost of the most expensive license for such species shall be assessed.

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

(a) Garments shall be solid daylight fluorescent orange colored material and shall be of sufficient brightness to be seen conspicuously from a reasonable distance.

(b) Garments shall be a minimum of five hundred square inches and shall be worn as an outer garment above the waist, part of which shall be a hat or head covering visible from all directions.

(2) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of fifty dollars and an assessment of five license suspension points.

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.

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 18-18-102 (5), C.R.S., or any other drug to a degree that renders such person 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.

33-6-124. Use of a motor vehicle or aircraft - rules. (1) (a) Unless otherwise permitted by commission rule, it is unlawful for a person to hunt, take, or harass wildlife from or with a motor vehicle. A person who violates this paragraph (a) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of two hundred dollars and an assessment of ten license suspension points.

(b) Unless otherwise permitted by commission rule, it is unlawful for any person to discharge a firearm or release an arrow from a motor vehicle with the intent to take wildlife. A person who violates this paragraph (b) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of two hundred dollars and an assessment of ten license suspension points.

(2) It is unlawful for any person airborne in any aircraft to spot or locate any wildlife and communicate its location to a person on the ground as an aid to hunting or pursuing 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. A person who violates this subsection (2) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of two thousand dollars and an assessment of fifteen license suspension points.

(3) It is unlawful for two or more people on the ground, in a motor vehicle, or in a vessel to use electronic devices to communicate information in the furtherance of a violation of articles 1 to 6 of this title or of a commission rule. A person who violates this subsection (3) 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.

(4) A person who violates section 33-14.5-108 (3) (a) while engaged in the act of hunting, fishing, trapping, or a related activity at the time of the unlawful activity shall be punished by a penalty of ten license suspension points; except that, if the person was within a

federal wilderness area at the time of the unlawful activity, the person shall be punished by a penalty of fifteen license suspension points. A person who violates section 33-14.5-108 (3) (b) while engaged in the act of hunting, fishing, or trapping or a related activity at the time of the unlawful activity shall be punished by a penalty of five license suspension points.

33-6-125. Possession of a loaded firearm in a motor vehicle. It is unlawful for any person, except a person authorized by law or by the division, to possess or have under his control any firearm, other than a pistol or revolver, in or on any motor vehicle unless the chamber of such firearm is unloaded. Any person in possession or in control of a rifle or shotgun in a motor vehicle shall allow any peace officer, as defined in section 33-1-102 (32), who is empowered and acting under the authority granted in section 33-6-101 to enforce articles 1 to 6 of this title to inspect the chamber of any rifle or shotgun in the motor vehicle. For the purposes of this section, a "muzzle-loader" shall be considered unloaded if it is not primed, and, for such purpose, "primed" means having a percussion cap on the nipple or flint in the striker and powder in the flash pan. Any person who violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of fifty dollars and an assessment of fifteen license suspension points.

33-6-126. Shooting from a public road. It is unlawful for any person, except a duly authorized peace officer acting in the line of duty, to discharge any firearm or release an arrow from, upon, or across any public road. Any person who violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of fifty dollars and an assessment of five license suspension points.

33-6-127. Hunting with artificial light, night vision, or thermal imaging devices. (1) (a) Unless otherwise provided by commission rule 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 subsection (1), 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.

(b) A 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.

(2) (a) Unless otherwise provided by commission rule 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 a person to utilize electronic night vision equipment, electronically enhanced light-gathering optics, or thermal imaging devices as an aid in hunting or taking wildlife outside legal hunting hours according to commission rules.

(b) A person who violates this subsection (2) is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of two thousand dollars and an assessment of twenty license suspension points.

33-6-128. Damage or destruction of dens or nests - harassment of wildlife. (1) Unless permitted by the division, it is unlawful for any person to willfully damage or destroy any wildlife den or nest or their eggs or to harass 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 one hundred dollars and an assessment of ten license suspension points. For the purposes of this subsection (1), nothing shall prohibit the removal of wildlife dens or nests when necessary to prevent damage to property or livestock or while trapping.

(2) Unless otherwise allowed by commission rule or regulation, it is unlawful for any person to knowingly or negligently allow or direct a dog which he owns or which is under his control to harass wildlife, whether or not the wildlife is actually injured by such dog. Any person who violates this subsection (2) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of two hundred dollars.

(3) A Colorado wildlife officer or other peace officer may capture or kill any dog he or she determines to be harassing wildlife. The provisions of this subsection (3) shall not apply to dogs that are under the direct personal control of a person.

33-6-129. Damage to property or habitat under division control. (1) It is unlawful for any person to remove, damage, deface, or destroy any real or personal property or wildlife habitat under the control of the division. Any person who violates this subsection (1) 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. In addition, the court may require the defendant to reimburse the division for any damages.

(2) It is unlawful for any person to use any division property in violation of any commission rule or regulation. Any person who violates this subsection (2) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of fifty dollars.

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.

(2) The division shall cooperate with the department of agriculture in developing policies and procedures for the issuance by said department of permits for the use of poison by livestock owners or operators.

33-6-131. Knowingly luring bears. (1) Unless otherwise permitted by commission rule, it is unlawful for any person to place food or edible waste in the open with the intent of luring a wild bear to such food or edible waste.

(2) (a) This section shall not apply to acts related to agriculture, as defined in section 35-1-102 (1), C.R.S.

(b) For the purposes of this section, "food or edible waste" shall not include live animals or food that is grown in the open prior to such food being harvested.

(3) Any person who violates this section shall be given a warning. Upon a second or subsequent violation of this section, such person is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed:

(a) One hundred dollars for a first offense;

(b) Five hundred dollars for a second offense;

(c) One thousand dollars for a third or subsequent offense.

33-6-132. Computer-assisted remote hunting prohibited. (1) It is unlawful for any person to engage in computer-assisted remote hunting in Colorado. This subsection (1) shall apply if either the wildlife hunted or any device, equipment, or software, including, without limitation, the person's own computer, used to remotely control the weapon is located in Colorado.

(2) It is unlawful for any person to establish or operate computer-assisted remote hunting facilities in Colorado.

(3) Any person who violates this section is guilty of a misdemeanor and, upon conviction thereof:

(a) For a first offense, shall be punished by a fine of not less than one thousand dollars nor more than ten thousand dollars and an assessment of twenty license points;

(b) For any subsequent offenses, shall be punished by a fine of not less than ten thousand dollars nor more than one hundred thousand dollars or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. In addition to imposing such punishments, the commission may suspend any wildlife privileges of the person for a minimum of one year to a maximum of a lifetime suspension.

(4) This section shall not apply to persons who provide only:

(a) General-purpose equipment, including computers, cameras, and fencing and building materials;

(b) General-purpose computer software, including operating systems and communication programs; or

(c) General-purpose telecommunications hardware or networking services for computers, including adapters, modems, servers, routers, and other facilities associated with internet access.

(5) Nothing in this section shall preclude the division of parks and wildlife from establishing a special licensing program for mobility-impaired hunters pursuant to section 33-4-119 and rules adopted pursuant to section 33-4-119 or from granting reasonable accommodations

for persons with disabilities in accordance with the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq.

PART 2

TRAPS, POISONS, AND SNARES

33-6-201. Legislative declaration - scope and purpose of part. (1) The general assembly finds, determines, and declares that:

(a) The purpose of this part 2 is to implement section 12b of article XVIII of the state constitution, adopted by the people at the 1996 general election.

(b) The provisions of this part 2 are intended to honor the expressed desire of the people of Colorado to promote humane methods of animal control and discourage the use of inhumane methods while preserving the ability to protect human life, health, safety, and property by taking wildlife when there is no practical alternative.

(c) Whenever possible, this part 2 should be read in conjunction and harmony with the other provisions of this title and with sections 35-40-101 and 35-40-102, C.R.S.; except that, in case of conflict, the provisions of this part 2 shall prevail.

33-6-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Department of health" means a governmental entity with the responsibility to prevent or alleviate diseases and other biological or environmental hazards to human health or safety. The term specifically includes, without limitation, the department of public health and environment, created in section 25-1-102, C.R.S., and every department or agency at the county or local level that is charged with comparable powers and duties.

(2) "Human health or safety" means the physical health or safety of individual human beings. The term does not encompass economic, aesthetic, or social values or the health of ecosystems.

33-6-203. General prohibition - penalties. (1) Except as otherwise provided in this part 2, it is unlawful to take wildlife with any leghold trap, any instant kill body-gripping design trap, or by poison or snare in the state of Colorado. Penalties shall be as provided in section 33-6-109 unless a different penalty is specifically provided in this part 2.

(2) Except as otherwise provided in this part 2, any person who attempts to take wildlife using any leghold trap, instant kill body-gripping design trap, poison, or snare commits a class 1 petty offense and, upon conviction thereof, shall be punished by a fine of forty dollars and an assessment of four license suspension points.

(3) An owner or lessee of private property or an employee of such owner or lessee, as such terms are defined and used in sections 33-6-207 and 33-6-208, who takes wildlife using any leghold trap, instant kill body-gripping design trap, poison, or snare on such private property

under circumstances that give rise to the exemption set forth in section 33-6-207 (1) but without complying with the notice and certification requirements of section 33-6-208 (1) (c) commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of twenty-five dollars; except that, upon conviction of a second or subsequent offense, the fine shall be fifty dollars.

(4) Any person convicted of violating subsection (1) or (2) of this section shall be subject to twice the applicable penalty if the offense occurred pursuant to an unlawful entry onto the privately owned or leased property of another.

33-6-204. General exemptions - conduct "authorized by law". (1) Section 33-6-203 shall not apply to:

(a) The taking of birds or of rodents, other than beaver or muskrat, as authorized by law; or

(b) The taking of fish or other nonmammalian aquatic wildlife by the division.

(2) Nothing in this part 2 shall be construed to prohibit the taking of wildlife with firearms, fishing equipment, archery equipment, or other implements in hand as authorized by law.

33-6-205. Exemption - departments of health. (1) Section 33-6-203 shall not apply to the taking of wildlife by federal, state, county, or municipal departments of health for the purpose of protecting human health or safety.

(2) (a) To ensure that the taking of wildlife pursuant to subsection (1) of this section is accomplished in as competent, safe, effective, and humane a manner as is possible, a department of health may contract with an independent contractor or, by appropriate intergovernmental agreement, enlist the aid of qualified employees or agents of the division, the United States department of agriculture, the state department of agriculture, or a local police department or animal control agency for the taking of wildlife.

(b) The commission is authorized to adopt and enforce reasonable rules for the licensing and supervision of persons desiring to act as independent contractors under this section. This paragraph (b) shall not supersede the licensure requirements of the "Pesticide Applicators' Act", article 10 of title 35, C.R.S.

33-6-206. Exemptions - nonlethal methods. (1) Notwithstanding section 33-6-203, but subject to regulation by the commission, authorized persons may use nonlethal snares, traps specifically designed not to kill, or nets to take wildlife for purposes of:

(a) Bona fide scientific research;

(b) Falconry;

(c) Relocation permitted in accordance with rules of the division; or

(d) Medical treatment of the animal being captured.

33-6-207. Exemption - landowners' protection of crops and livestock - definitions - authority of division and of department of agriculture. (1) Section 33-6-203 shall not apply to the owner or lessee of a parcel of private property, nor to the employees of such owner or lessee, so long as all of the following conditions are met:

(a) The property is primarily used for commercial livestock or crop production;

(b) The use of the methods otherwise prohibited by section 33-6-203 occurs only on the property;

(c) Such use does not exceed one thirty-day period per year for each parcel of private property; and

(d) The owner or lessee can present on-site evidence to the division that ongoing damage to livestock or crops has not been alleviated by the use of methods other than those prohibited by section 33-6-203.

(2) As used in this section and in section 33-6-208:

(a) "Crops" includes all plants raised for profit.

(b) "Employee" means a person hired or retained by, or under a written or oral contract or cooperative agreement with, an owner or lessee to perform services of any kind.

(c) "Lessee" means a person, other than the owner, who has a present possessory interest in real property. If the possessory interest is held by a corporation, partnership, association, or other entity, "lessee" includes the individual shareholders, principals, partners, or members of such entity. If the possessory interest is held in trust, "lessee" includes a beneficiary of such trust.

(d) "Livestock" includes all animals raised for profit.

(e) "Ongoing damage" means measurable physical harm to livestock or crops that has resulted or will result in economic loss to an owner or lessee and appears likely to continue or recur in the near future.

(f) (I) "On-site evidence" means physical evidence or documented observations gathered from the property on which trapping, snaring, or poisoning activity is proposed under subsection (1) of this section. Such evidence includes, but is not limited to:

(A) Carcasses or parts thereof;

(B) Physical injuries to livestock;

(C) Identifying tracks, tooth marks, fur, or other evidence of the presence and harmful activity of a depredating species;

(D) Photographs;

(E) Record entries.

(II) Where direct evidence has not been preserved, current or recent losses may be considered as "on-site evidence" so long as such losses are documented.

(g) "Owner" means the holder of record title to real property. If the title to real property is held by a corporation, partnership, association, or other entity, "owner" includes the individual shareholders, principals, partners, or members of such entity. If the title to real property is held in trust, "owner" includes a beneficiary of such trust.

(h) "Parcel of private property" means either of the following, at the option of the owner or lessee thereof:

(I) A parcel of private property that has been individually recorded in the office of the

county clerk in the county in which the parcel is located; or

(II) A single, contiguous parcel of private property under one ownership or lease.

(i) "Primarily used for commercial livestock or crop production" means used to produce agricultural products that originate from the land's productivity for the primary purpose of obtaining a monetary profit.

(j) "Private property" means real property whose record title is not held, wholly or in part, by any state, local, or federal government or agency thereof.

(3) The division and, in the case of depredating animals as defined in section 35-40-100.2 (4), C.R.S., the department of agriculture shall have the authority to adopt and enforce reasonable rules governing trapping, snaring, and poisoning activity under subsection (1) of this section. Such rules may include, without limitation, reasonable restrictions on the devices and, to the extent permissible under section 33-6-209, the poisons to be used and the manner of their use, including a requirement for serial numbering or other identification of devices if such is deemed necessary or desirable. The general assembly specifically endorses the implementation of a coordinated trade-in or pooling program to encourage the phasing out of older, less humane devices and the use, in their place, of newer, more humane ones.

33-6-208. Thirty-day period - administration - conditions precedent to use of exemption. (1) For purposes of the exemption specified in section 33-6-207:

(a) Where an owner or lessee raises livestock or crops on two or more separate parcels of private property, the exemption stated in section 33-6-207 shall apply separately to each parcel.

(b) The division shall verify that the owner or lessee has made reasonable efforts to alleviate ongoing damage to livestock or crops through reasonable efforts using methods other than those prohibited by section 33-6-203. The use of at least two of the following methods is presumed to represent reasonable efforts:

(I) Routine gathering of livestock in areas where predators are known to be present;

(II) The use of guard animals;

(III) The use of flashing lights, boom guns, or other scare tactics;

(IV) The presence of human herders or guards;

(V) Any other industry-accepted method that is effective in reducing losses and whose use is approved by the agriculture commission and the parks and wildlife commission for that purpose.

(c) (I) An owner or lessee seeking to use the exemption stated in section 33-6-207 shall notify the division by telephone, telefacsimile, or first-class mail before the beginning of each period during which trapping, snaring, or poisoning activity is to take place. Within ten days after giving such notice, the owner or lessee shall provide the division with a written certification that there exists on-site evidence of ongoing damage to livestock or crops and that the owner or lessee has made reasonable efforts to alleviate such damage by the use of alternative methods.

(II) The owner or lessee need not present on-site evidence of damage or of reasonable efforts using alternative methods before commencing trapping, snaring, or poisoning activity, but the owner or lessee shall be prepared to do so upon request of the division at any time within the

thirty-day period. The division may, at its option, send an employee or agent to visit the site and verify compliance with the requirements of this section and of section 33-6-207.

33-6-209. Poisons - labeling - definitions. (1) Neither the department of public health and environment or any other state or local agency shall impose or continue in effect a labeling requirement for poisons that differs from the requirements imposed by the United States environmental protection agency or by the "Pesticide Act", article 9 of title 35, C.R.S.

(2) For purposes of this section, "poison" means any substance or mixture of substances intended for destroying wildlife, which substance or mixture of substances is registered or required to be registered by the United States environmental protection agency or by the "Pesticide Act", article 9 of title 35, C.R.S.

ARTICLE 7

Snowmobiles

33-7-101 to 33-7-120. (Repealed)

ARTICLE 8

Nongame, Endangered, or Threatened
Species Conservation

33-8-101 to 33-8-110. (Repealed)

ADMINISTRATION

ARTICLE 9

Administration of Parks and Wildlife

33-9-101. Commission - creation - composition - terms - vacancies - removal - meetings - strategic plan - legislative declaration. (1) (a) Effective July 1, 2012, there is hereby created the parks and wildlife commission, also referred to in this article as the "commission".

(b) Repealed.

(2) The commission consists of thirteen members, as follows:

(a) Two members who are ex officio nonvoting members, as follows:

(I) The executive director; and

(II) The commissioner of the department of agriculture;

(b) Eleven voting members who are appointed, in accordance with subsection (3) of this section, by the governor with the consent of the senate.

(3) (a) The eleven voting members of the commission are as follows:

(I) Three members who are sports persons who can demonstrate a reasonable knowledge of wildlife issues and who have obtained a hunting or fishing license issued under this title for at least each of the three years prior to their appointments. One of the members appointed pursuant to this subparagraph (I) must be an outfitter registered pursuant to article 55.5 of title 12, C.R.S.

(II) Three members who are actively involved in production agriculture as owners or lessees of the agricultural property and owners or partial owners of the commodities produced on the land and who can demonstrate a reasonable knowledge of wildlife issues;

(III) Three members who can demonstrate that they regularly engage in outdoor recreation and utilize parks resources. One member appointed under this subparagraph (III) shall represent a nonprofit organization that supports and promotes the conservation and enhancement of Colorado's wildlife and habitat; recognizes and promotes primarily nonconsumptive wildlife use; and has expertise in wildlife issues, wildlife habitat, or wildlife management; and

(IV) Two members appointed from the public at-large.

(b) (I) In appointing members to the commission under paragraph (a) of this subsection (3), the governor shall make appointments that ensure that a reasonable balance of the following areas of knowledge and experience, as they relate to parks and wildlife, are represented: Outdoor business, service as a current or former local elected official, youth outdoor education, wildlife biology or science, energy, conservation, beneficial uses of water, land conservation and conservation easements, and diversified trails interests and activities. In order to satisfy the requirements of this paragraph (b), the governor shall give preference to persons with experience or expertise in multiple areas of knowledge.

(II) Regardless of the particular interests or qualifications possessed by each member appointed to the commission pursuant to paragraph (a) of this subsection (3), each commissioner represents diverse parks, wildlife, and outdoor recreation throughout Colorado and is committed to the long-term financial stability and sustainability of the department.

(c) Of the voting members appointed to the commission, there shall not be a difference of more than one person between those members affiliated with any major political party.

(d) To the extent possible, voting members shall be appointed to the commission in a manner that ensures balanced geographical representation of diverse areas of the state. At least four voting members shall be appointed from west of the continental divide.

(e) (I) Except as provided in paragraph (f) of this subsection (3), terms of members serving pursuant to paragraph (b) of subsection (2) of this section are for four years.

(II) No member serving pursuant to paragraph (b) of subsection (2) of this section is permitted to serve more than two consecutive terms.

(f) (I) Initial appointments of voting members of the commission are as follows: Two members to serve until July 1, 2013; three members to serve until July 18, 2014; three members to serve until July 18, 2015; and three members to serve until July 18, 2016. All subsequent appointments are for terms of four years.

(II) In making initial appointments to the commission under subparagraph (I) of this paragraph (f), the governor may select persons serving on the former parks and wildlife board, as that board existed on June 30, 2012. However, a person so appointed is ineligible to serve any of the initial appointments that would result in extending for more than two years the date on which the person's parks and wildlife board term would have expired.

(4) The governor shall fill vacancies on the commission for any unexpired term, with the consent of the senate. The member appointed to fill a vacancy shall be from the same category described in paragraph (a) of subsection (3) of this section as the member vacating the position.

(5) The governor is permitted to remove members of the commission only for cause.

(6) Six voting commissioners constitute a quorum for purposes of conducting the business of the commission.

(7) For purposes of mailing and service, the commission's principal office is in the office of the executive director.

(8) For each day actually engaged in the duties of the commission, the commission members are entitled to receive a per diem amount of fifty dollars, together with all actual and necessary travel expenses to be paid after the expenses are incurred. Mileage rates are as provided in section 24-9-104, C.R.S.

(9) The commission shall exercise its powers and perform its duties and functions under the department and the executive director of the department as if the same were transferred to the department by a **type 1** transfer, as defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(10) (a) (I) The initial meeting of the commission shall be convened by the executive director.

(II) At the first meeting, the commission shall:

(A) Elect a chair and vice-chair from the members serving pursuant to paragraph (b) of subsection (2) of this section, who shall serve in that capacity for a term of one year but who may be reelected for additional terms; and

(B) Designate two members to serve as representatives to the state board of the great outdoors Colorado trust fund established under article XXVII of the state constitution. One representative must be a commissioner with wildlife knowledge appointed pursuant to subparagraph (I) of paragraph (a) of subsection (3) of this section, and the other representative must be a commissioner with experience in outdoor recreation appointed pursuant to subparagraph (III) of paragraph (a) of subsection (3) of this section.

(b) The commission shall meet as often as necessary and may adopt policies and

procedures necessary to carry out its duties. The commission shall conduct at least two meetings per calendar year at locations west of the continental divide.

(11) (a) In addition to discharging its regular duties and functions, the commission shall specifically discuss and formulate a five-year strategic plan to address ongoing or new issues resulting after, and identify increased efficiencies and cost savings that may be realized from, the 2011 merger of the former division of wildlife and the former division of parks and outdoor recreation into the division of parks and wildlife. The strategic plan must address how the merger has affected policies, objectives, strategies, and estimated annual fiscal costs and savings associated with the duties and programs of the division.

(b) The commission shall finalize the strategic plan required by this subsection (11) by December 31, 2013. In developing the strategic plan, the commission shall place special emphasis on obtaining meaningful statewide input.

(c) Notwithstanding section 24-1-136 (11), C.R.S., for every year included in the strategic plan, the commission shall submit a report annually to the house committee on agriculture, livestock, and natural resources and the senate committee on agriculture, natural resources, and energy, or any successor committees, regarding the progress and status of the strategic plan. In order to reduce costs associated with preparing and transmitting such reports, the commission is authorized to send the reports in an electronic format.

(12) (a) The general assembly hereby finds, determines, and declares that it is the policy of the state that:

(I) Colorado's wildlife, natural, scenic, and scientific resources must be protected, preserved, enhanced, and managed for the use, benefit, and enjoyment of the people of the state and its visitors;

(II) Colorado's agriculture plays a vital role in providing the state's wildlife, natural, scenic, and scientific resources the habitat and conditions that allow these resources to thrive;

(III) A comprehensive program designed to offer the greatest possible variety of recreational opportunity to the people of the state and its visitors is provided;

(IV) There must be a continuous operation of planning, acquisition, development, and management of wildlife habitats, state parks, outdoor recreation lands, trails, waters, and facilities in a manner that recognizes the private property rights of individual property owners; and

(V) Both education and outreach activities must be used to promote natural resources stewardship.

(b) The general assembly further finds and declares that the mission of the commission and the division is to perpetuate the wildlife resources of the state, to provide a quality state parks system, and to provide enjoyable and sustainable outdoor recreation opportunities that educate and inspire current and future generations to serve as active stewards of Colorado's natural resources.

33-9-102. Powers and duties of commission - rules. (1) The commission is vested with all the powers, responsibilities, obligations, functions, and duties that previously were under the jurisdiction of the former wildlife commission or the former board of parks and outdoor

recreation as of June 30, 2011.

(2) In addition to any other specific grant of rule-making authority, the commission may adopt or revise any rules, in accordance with article 4 of title 24, C.R.S., that the commission deems necessary or convenient to effect the purposes of, and fulfill its duties under, this title.

(3) The commission shall designate a commission member with wildlife knowledge appointed pursuant to section 33-9-101 (3) (a) (I) to serve as a representative to the state board of the great outdoors Colorado trust fund established under article XXVII of the state constitution. The commission shall designate a commission member with parks and outdoor recreation knowledge appointed pursuant to section 33-9-101 (3) (a) (III) to serve as a representative to the state board of the great outdoors Colorado trust fund established under article XXVII of the state constitution.

(4) (a) Except as provided in paragraph (b) of this subsection (4), in promulgating a rule to increase or decrease a park fee or charge under articles 10 to 32 of this title, the commission shall consider the effect that the change in the fee or charge would have on park usage, the demand for the service for which the fee or charge is used, and opportunities to implement differential pricing.

(b) The commission may raise or lower park fees and charges described in paragraph (a) of this subsection (4) if the commission reasonably anticipates that the total annual revenues realized from such fees and charges will not increase by more than twenty percent over the annual amount earned from fees and charges as they existed on July 1, 2011.

33-9-103. Office of director of division created - duties. (1) (a) The office of director of the division is hereby created. The commission, with the consent of the executive director, shall appoint the director. The director shall devote his or her entire time to the service of the state in the discharge of his or her official duties and shall not hold any other public office. The appointment or removal of the director is subject to section 13 of article XII of the state constitution. The director shall possess such qualifications as may be established by the commission, the executive director, and the state personnel director.

(b) (Deleted by amendment, L. 2012.)

(2) The director shall execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested previously in the director of the division of wildlife and the director of the division of parks and outdoor recreation, including those duties described under sections 33-1-110 and 33-10-109.

(3) The director shall exercise all the powers and perform all the functions of the commission in the interim between its meetings, subject to the ratification of the commission. The director shall act as recording secretary for the commission and is the custodian of all minutes and other records of the commission. The director shall perform such duties as prescribed by the commission, by the executive director, or by law; except that the director has no authority to promulgate rules.

33-9-104. Division - creation - duties. (1) There is hereby created a division of parks and wildlife in the department of natural resources, also referred to in this article as the "division". The division is under the jurisdiction of the commission.

(2) The division shall exercise its powers and perform its duties and functions specified in this title under the department of natural resources and the executive director thereof as if the same were transferred to the department by a **type 1** transfer as defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S. The division has all the powers, duties, obligations, and functions previously exercised by the division of wildlife or the division of parks and outdoor recreation, as those divisions existed on June 30, 2011.

33-9-105. Enterprise status of commission and division. (1) The division and the commission constitute an enterprise for the purposes of section 20 of article X of the state constitution, so long as the commission retains the authority to issue revenue bonds and the division receives less than ten percent of its total annual revenues in grants, as defined in section 24-77-102 (7), C.R.S., from all Colorado state and local governments combined. So long as they constitute an enterprise pursuant to this section, the division and the commission are not subject to any of the provisions of section 20 of article X of the state constitution.

(2) The enterprise created pursuant to this section has all the powers and duties of the commission and the division as authorized under this title.

(3) Nothing in this section limits or restricts the authority of the division to expend its revenues consistent with this title.

33-9-106. Reports.

(1) (Deleted by amendment, L. 2012.)

(2) Beginning in 2013 and notwithstanding section 24-1-136 (11), C.R.S., the executive director shall report annually to the joint house agriculture, livestock, and natural resources committee and the senate agriculture, natural resources, and energy committee, or any successor committees, regarding the administration of the division, including an evaluation of division resources and their utilization and an identification of opportunities for efficiencies. Each such report must summarize stakeholder outreach conducted during the prior year and must also identify disposition of assets and cost savings, both planned and realized, since the previous year, including savings pertaining to personnel, equipment, services, and provisioning.

33-9-107. Reaffirmation of assent to federal Pittman-Robertson and Dingell-Johnson acts. Nothing in this article alters or affects the state's assent to the federal acts described in sections 33-1-117 and 33-1-118, which assent prohibits diversion of license fees paid by hunters and sport fishermen to purposes other than administration of the fish and wildlife agency.

33-9-108. Transfer of functions - employees - property - records - rules - contracts - lawsuits - statutory references. (1) (a) The commission shall execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested previously in the former wildlife commission or the former board of parks and outdoor recreation.

(b) (I) The division shall execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested previously in the division of wildlife or the division of parks and outdoor recreation.

(II) The director shall execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested previously in the director of the division of wildlife or the director of the division of parks and outdoor recreation.

(2) (a) All positions of employment in the wildlife commission and the board of parks and outdoor recreation concerning the powers, duties, and functions transferred to the parks and wildlife commission pursuant to this article and determined to be necessary to carry out the purposes of this title by the parks and wildlife commission are transferred to the commission and are employment positions therein. All such employees are employees of the commission for purposes of section 24-50-124, C.R.S., and retain all rights under the state personnel system and to retirement benefits pursuant to the laws of this state, and their services shall be deemed continuous.

(b) All positions of employment in the division of wildlife and the division of parks and outdoor recreation concerning the powers, duties, and functions transferred to the division of parks and wildlife pursuant to this article and determined to be necessary to carry out the purposes of this title by the director are transferred to the division and are employment positions therein. All such employees are employees of the division for purposes of section 24-50-124, C.R.S., and retain all rights under the state personnel system and to retirement benefits pursuant to the laws of this state, and their services shall be deemed continuous.

(3) (a) All items of property, real and personal, including office furniture and fixtures, books, documents, and records of the wildlife commission or the board of parks and outdoor recreation are transferred to the parks and wildlife commission and become the property thereof.

(b) All items of property, real and personal, including office furniture and fixtures, books, documents, and records of the division of wildlife or the division of parks and outdoor recreation are transferred to the division of parks and wildlife and become the property thereof.

(c) All personal and real property acquired in whole or in part with license fees or federal grant funds is subject to accountability and control by the division to assure that the property serves the purpose for which it was originally acquired throughout its useful life.

(4) (a) Whenever the wildlife commission or the board of parks and outdoor recreation is referred to or designated by any contract or other document, the reference or designation applies to the parks and wildlife commission. All contracts entered into by the wildlife commission or the board of parks and outdoor recreation prior to June 30, 2011, are hereby validated, with the commission succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, trusts, grants, and any appropriations of funds from prior fiscal years available to satisfy obligations incurred under such contracts shall be transferred and appropriated to the commission for the payment of such obligations.

(b) Whenever the division of wildlife or the division of parks and outdoor recreation is referred to or designated by any contract or other document, the reference or designation applies to the division of parks and wildlife. All contracts entered into by the former divisions prior to June 30, 2011, are hereby validated, with the division succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, trusts, grants, and any appropriations of funds from prior fiscal years available to satisfy obligations incurred under such contracts are transferred and appropriated to the division for the payment of such obligations.

(5) (a) Unless otherwise specified:

(I) Whenever any law refers to the wildlife commission, the board of parks and outdoor recreation, or the parks and wildlife board, that law shall be construed as referring to the parks and wildlife commission; and

(II) Whenever any law refers to the division of wildlife or the division of parks and outdoor recreation, that law shall be construed as referring to the division of parks and wildlife.

(b) The revisor of statutes is hereby authorized to change all references in the Colorado Revised Statutes to the wildlife commission, the board of parks and outdoor recreation, or the parks and wildlife board from such references to the parks and wildlife commission, as appropriate. The revisor of statutes is also authorized to change all references in the Colorado Revised Statutes to the division of wildlife or the division of parks and outdoor recreation from such references to the division of parks and wildlife, as appropriate. In connection with this authority, the revisor of statutes is hereby authorized to amend or delete provisions of the Colorado Revised Statutes so as to make the statutes consistent with the powers, duties, and functions transferred pursuant to this article.

(6) All rules and orders of the wildlife commission or the board of parks and outdoor recreation continue to be effective and shall be enforced by the commission until superseded, revised, amended, repealed, or nullified pursuant to law. The commission shall adopt any rules necessary for the administration of the division and as otherwise authorized by this title.

(7) All commissioned peace officers of the division of parks and wildlife have all the powers, duties, functions, special protections, and responsibilities that such officers exercised or enjoyed under the division of wildlife or the division of parks and outdoor recreation.

(8) No suit, action, or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against the wildlife commission, the board of parks and outdoor recreation, the parks and wildlife board, the division of wildlife, or the division of parks and outdoor recreation, or any officer thereof in such officer's official capacity or in relation to the discharge of the official's duties, is abated by reason of the transfer of duties and functions to the parks and wildlife commission or the division under this article.

33-9-109. Funds - appropriations to former divisions in 2011 general appropriations act. (1) Nothing in this article alters or affects funds previously administered by the former wildlife commission or the former board of parks and outdoor recreation; except that the parks and wildlife commission shall administer such funds.

(2) The commission shall adopt policies, procedures, or accounting methods to ensure

transparency and prevent the unauthorized commingling or impermissible use of moneys in distinct funds, to ensure that moneys are expended consistent with the purposes for which they are received, collected, or appropriated, and to ensure that appropriate records are maintained for audit purposes.

(3) (a) The commission shall segregate all moneys received pursuant to section 3 (1) (b) (II) of article XXVII of the state constitution from all other moneys and shall spend these moneys solely for development and improvement of new and existing state parks, recreation areas, and recreational trails.

(b) The commission shall segregate all moneys received pursuant to section 5 (1) (a) (I) of article XXVII of the state constitution and spend these moneys solely for investments in the wildlife resources of Colorado, including the protection and restoration of crucial wildlife habitats, appropriate programs for maintaining Colorado's diverse wildlife heritage, wildlife watching, and educational programs about wildlife and wildlife environment, consistent with the purposes set forth under section 1 (1) (a) of article XXVII.

(c) The commission shall segregate all moneys received pursuant to section 5 (1) (a) (II) of article XXVII of the state constitution and spend these moneys solely for investments in the outdoor recreation resources of Colorado, including the state parks system, trails, public information and environmental education resources, and water for recreational facilities, consistent with the purposes set forth under section 1 (1) (a) of article XXVII.

(4) Repealed.

33-9-110. Black bears - methods to address bear-human conflicts - study - report - repeal. (1) The division shall gather information about, consider, and evaluate all available management tools to enhance the division's ability to properly manage black bear populations year round to address bear-human conflicts and public safety. The division shall report its findings by December 31, 2015, to the agriculture, livestock, and natural resources committee of the house of representatives and the agriculture, natural resources, and energy committee of the senate, or their successor committees.

(2) This section is repealed, effective July 1, 2016.

33-9-111. Disclosure of knowing misrepresentation by a peace officer required - disclosure waivers - reports - definitions. (1) Subject to the limitations of this section, if the division employs, employed, or deputized on or after January 1, 2010, a peace officer who applies for employment with another Colorado law enforcement agency, the division shall disclose to the hiring agency information, if available, indicating whether the peace officer's employment history included any instances in which the peace officer had a sustained violation for making a knowing misrepresentation:

(a) In any testimony or affidavit relating to the arrest or prosecution of a person or to a civil case pertaining to the peace officer or to the peace officer's employment history; or

(b) During the course of any internal investigation by a law enforcement agency, which investigation is related to the peace officer's alleged criminal conduct; official misconduct, as

described in section 18-8-404 or 18-8-405, C.R.S.; or use of excessive force, regardless of whether the alleged criminal conduct, official misconduct, or use of excessive force occurred while the peace officer was on duty, off duty, or acting pursuant to a service contract to which the division is a party.

(2) The disclosure described in subsection (1) of this section is required only upon the presentation of a written waiver to the division, which waiver explicitly authorizes the division to disclose the information described in said subsection (1), has been signed by the applicant peace officer, and identifies the Colorado law enforcement agency that is considering the applicant peace officer for employment. If the division receives such a waiver, the division shall provide the disclosure to the Colorado law enforcement agency that is considering the applicant peace officer for employment not more than seven days after such receipt.

(3) The division is not required to provide the disclosure described in subsection (1) of this section if the division is prohibited from providing such disclosure pursuant to a binding nondisclosure agreement to which the division is a party, which agreement was executed before August 5, 2015.

(4) (a) The division shall notify the local district attorney whenever the division determines there is a sustained finding that any peace officer of the division has made a knowing misrepresentation:

(I) In any testimony or affidavit relating to the arrest or prosecution of a person or to a civil case pertaining to the peace officer or to the peace officer's employment history; or

(II) During the course of any internal investigation by a law enforcement agency, which investigation is related to the peace officer's alleged criminal conduct; official misconduct, as described in section 18-8-404 or 18-8-405, C.R.S.; or use of excessive force, regardless of whether the alleged criminal conduct, official misconduct, or use of excessive force occurred while the peace officer was on duty, off duty, or acting pursuant to a service contract to which the division is a party.

(b) The division shall provide the notice described in paragraph (a) of this subsection (4) not more than seven days after the division determines there is a sustained finding that a peace officer of the division has made a knowing misrepresentation, as described in said paragraph (a).

(5) The division is not liable for complying with the provisions of this section.

(6) As used in this section, unless the context requires otherwise, "state or local law enforcement agency" means:

(a) The Colorado state patrol created pursuant to section 24-33.5-201, C.R.S.;

(b) The Colorado bureau of investigation created pursuant to section 24-33.5-401, C.R.S.;

(c) A county sheriff's office;

(d) A municipal police department;

(e) The division of parks and wildlife within the department of natural resources created pursuant to section 24-1-124, C.R.S.; or

(f) A town marshal's office.

PARKS

ARTICLE 10

Parks - General Provisions

33-10-101. Legislative declaration. (1) It is the policy of the state of Colorado that the natural, scenic, scientific, and outdoor recreation areas of this state are to be protected, preserved, enhanced, and managed for the use, benefit, and enjoyment of the people of this state and visitors of this state. It is further declared to be the policy of this state that there shall be provided a comprehensive program of outdoor recreation in order to offer the greatest possible variety of outdoor recreational opportunities to the people of this state and its visitors and that to carry out such program and policy there shall be a continuous operation of acquisition, development, and management of outdoor recreation lands, waters, and facilities.

(2) In implementing the policy set forth in subsection (1) of this section, the state shall:

(a) Develop state parks and state recreation areas suitable for such recreational activities as camping, picnicking, hiking, horseback riding, environmental education, sightseeing, hunting, boating, fishing, swimming, and other water sports, and other recreational activities;

(b) Advise the citizens of this state and visitors of the location of state parks and recreation areas through the distribution of Colorado state park and recreation area guides and the use of other appropriate informational devices;

(c) Not be responsible for development of neighborhood parks or recreation areas that are mainly designed to provide facilities for team or individual sports;

(d) Charge a fee for required passes or permits for the use of any state park or state recreation area where appropriate supervision and maintenance is required and when certain facilities, as determined by the parks and wildlife commission, are maintained at any such area;

(e) Allow sport hunting, trapping, and fishing as a wildlife management tool and as the primary method of effecting a necessary wildlife management on lands under the control of the division of parks and wildlife.

33-10-102. Definitions. As used in articles 10 to 15 of this title, unless the context otherwise requires:

(1) Repealed.

(2) "Camping" means the erecting of a tent or shelter of natural or manmade material, the placing of a sleeping bag or other bedding material on the ground, the parking of a motor vehicle, motor home, or traveler, or the mooring of a vessel for the apparent purpose of overnight occupancy.

(3) to (6) Repealed.

(7) "Fishing" shall have the same meaning as that specified in section 33-1-102.

(8) "Hours", unless otherwise stated, means the hours of the day or night when recreational activities shall take place on land and water under the control of the division.

(9) Repealed.

(10) "Littering" means the indiscriminate depositing of trash, garbage, or other waste on public or private lands or waters of this state.

(11) and (12) Repealed.

(13) "Outdoor recreation" means any activity conducted in an outdoor environment by persons, such as hiking, camping, boating, fishing, hunting, and the like.

(14) "Outdoor recreation resources" means the land and water areas which provide or may in the future provide opportunities for outdoor recreation.

(15) "Parks and recreation officer" or "special parks and recreation officer" means a person who is appointed by the director and authorized to enforce the park laws and the rules of the commission and who shall cooperate with the division in the enforcement of the wildlife laws and rules.

(16) "Pass" or "registration" means a document issued by the division authorizing the use of land and water under the control of the division or the use of vessels or snowmobiles within this state. The term "pass" shall include a permit or card, and the term "registration" shall include decals issued by the division.

(17) "Peace officer" means a sheriff, undersheriff, deputy sheriff, police officer, Colorado state patrol officer, or town marshal; a district attorney, assistant district attorney, deputy district attorney, or special deputy district attorney; an authorized investigator of a district attorney; an agent of the Colorado bureau of investigation; a Colorado wildlife officer or special wildlife officer; or a parks and recreation officer. A parks and recreation officer has the powers of a peace officer as set forth in sections 16-2.5-101 and 16-2.5-117, C.R.S., and has the authority to enforce the laws of the state of Colorado while in the performance of his duties.

(18) "Permit" means a document issued pursuant to commission rule and includes such documents as campground permits, electrical hookup permits, group picnic area permits, and other permits as authorized by the commission.

(19) "Person" means any individual, association, partnership, or public or private corporation, any municipal corporation, county, city, city and county, or other political subdivision of the state, or any other public or private organization of any character.

(20) "Public road" means the traveled portion and the shoulders on each side of any road maintained for public travel by a county, city, or city and county, the state, or the United States government and includes all structures within the limits of the right-of-way of any such road.

(21) "Resident" means any person who has been domiciled in this state for six consecutive months or more immediately preceding the date of application for or purchase of any registration or aspen leaf passport under articles 10 to 15 of this title or the rules of the commission, who resides in this state with the genuine intent of making this state his or her place of permanent abode, and who, when absent, intends to return to this state. 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 domiciled in Colorado at the time he or she entered military service is presumed to retain his or her status as a domiciliary of Colorado throughout

his stay in the service, regardless of where he or she may be assigned to duty or for how long. For the purposes of this subsection (21), the following are deemed residents of this state:

(a) 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 spouses and dependent children;

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

(c) Students who are enrolled in and have been attending any school, college, or university in this state for at least six months immediately prior to the date of application for any registration. Students who are temporarily absent from this state while still enrolled at any such school, college, or university shall be deemed residents for the purposes of this subsection (21).

(22) "Sell" includes offering or possessing for sale, bartering, exchanging, or trading.

(23) "State park" means a relatively spacious fee title area having outstanding scenic and natural qualities and often containing significant archaeological, ecological, geological, and other scientific values so as to make imperative the preservation of the area by the division for the enjoyment, education, and inspiration of residents and visitors.

(24) "State recreation area" means a relatively spacious and scenically attractive land and water area under the control of the division offering a broad range of outdoor recreational opportunities. A relatively spacious water body with limited land area under the control of the division may be classified as a state recreation area if it offers a full range of water-based recreational activities such as boating, water skiing, hunting, trapping, fishing, and swimming and has sufficient adjacent land acreage for the associated camping and picnicking. A relatively spacious land area without a significant water body may be classified as a state recreation area if it offers a full range of land-based recreational activities such as camping, picnicking, bicycling, hiking, horseback riding, environmental education, target shooting, hunting, trapping, and motorized recreation.

(25) "Transfer" means to pass, deliver, convey, or hand over from one person to another.

(26) "Trapping" shall have the same meaning as that specified in section 33-1-102.

(27) "Vessel" means every description of watercraft used or capable of being used as a means of transportation of persons and property on the water, other than single-chambered, air-inflated devices or seaplanes.

(28) "Waters of the state" means any natural streams, reservoirs, and lakes within the territorial limits of the state of Colorado.

(29) "Wildlife" shall have the same meaning as that specified in section 33-1-102.

33-10-103. Division and board created. (Repealed)

33-10-104. Board composition - jurisdiction. (Repealed)

33-10-105. Board regions. (Repealed)

33-10-106. Duties of the commission - rules. (1) The commission shall:

(a) Promulgate rules and orders relating to parks and outdoor recreation programs which are necessary to carry out the purposes of articles 10 to 15 and 32 of this title;

(b) Administer the provisions of articles 10 to 15 and 32 of this title through the division and control, manage, develop, and maintain all state parks and state recreation areas, consistent with the state policy as set forth in section 33-10-101;

(c) Establish parks and outdoor recreation uses for the areas, lakes, properties, and facilities under its control or which may be acquired or come under its control or supervision after July 1, 1972, where such areas, lakes, properties, or facilities are suitable for such uses;

(d) Relate the parks and outdoor recreation programs to the populations and economies of the regions to be served and attempt to acquire pursuant to legislative authorization suitable lands for parks and outdoor recreation before their price has placed them beyond the means of the public treasury;

(e) Through the division, enforce the laws and rules relating to parks and outdoor recreation areas;

(f) Assure maximum development and protection of wildlife habitat consistent with park and outdoor recreation operations and provide full opportunity for the hunter and fisherman to harvest the surplus wildlife resources on all state park and outdoor recreation areas whenever public safety can be maintained;

(g) Review dollar amount certifications submitted to it by eligible counties pursuant to part 3 of article 25 of title 30, C.R.S., determine the amounts to be certified to the general assembly, and certify said amounts pursuant to part 3 of article 25 of title 30, C.R.S.;

(h) Select areas in proximity to lakes, streams, or reservoirs to be studied by the division for purposes of determining their suitability for the establishment of trails under article 11 of this title;

(i) Designate trails to be part of the Colorado greenway trails system based on recommendations of the division pursuant to section 33-10-108 (1) (h);

(j) (I) Promulgate rules as necessary to implement section 33-10-108.5, including, without limitation:

(A) Procedures for entering into contracts or agreements for interpretive or educational services;

(B) If a contract or agreement calls for the provision of interpretive or educational materials by a private organization, guidelines for approval of the interpretive or educational materials, including both printed matter and the content of any lecture, guided tour, audiovisual program, or other presentation, to ensure that factual representations are scientifically valid and objectively supported and that, where there is more than one responsible viewpoint on an issue, all such responsible viewpoints are presented in a balanced manner; and

(C) Procedures for renewal and dissolution of contracts or agreements for interpretive or educational services.

(II) In adopting rules pursuant to this paragraph (j), the commission shall consult with the

director and personnel of the division and shall not initiate any special or additional rule-making hearings outside the commission's normal rule-making schedule. The intent of this subparagraph (II) is to allow the commission and the division to implement section 33-10-108.5 within existing appropriations.

(III) Whenever the commission negotiates a contract or agreement affecting a specific state park, natural area, or facility, the commission shall promptly give written notice to the staff assigned to that park, area, or facility.

(2) The commission shall adopt such rules as may be reasonably necessary for the administration, protection, and maintenance of all state parks and recreation areas under the direct control of the division. Specifically, the commission has the power to adopt rules for such areas on the following matters:

(a) Preservation of property, vegetation, wildlife, signs, markers, or buildings or other structures, and any object of scientific value or interest;

(b) Restriction or limitation of the use of any such area either as to time, manner, or permitted activities;

(c) Prohibition of activities or conduct which may be reasonably expected to substantially interfere with the use and enjoyment of such areas by the general public or which may constitute a general nuisance;

(d) Necessary sanitation, health, and safety measures;

(e) Camping and picnicking, including the place, time, and manner in which such activities are permitted;

(f) Use of motor vehicles and vessels, as to place, time, and manner of operation;

(g) Control and limitation of fires and designation of places where fires are permitted;

(h) Requirements essential for the proper management of state parks and outdoor recreation functions and uses.

(3) Rules that apply to any particular area under the control of the division shall be prominently posted at such area, and general parks and outdoor recreation rules applying to all state parks and recreation areas shall be prominently posted at all public entrances to any such areas and at such other places as the division deems necessary. Permission to enter and use any state park or recreation area under the control of the division shall be conditioned upon compliance with the rules governing any such area, and any person who violates such rules may be cited for violations thereof, or required to leave the area for a twenty-four-hour period by division personnel or by other persons specifically authorized to enforce such rules by the division, or both.

(4) (a) Rule-making procedures are as prescribed in article 4 of title 24, C.R.S., except as otherwise provided in articles 10 to 15 and 32 of this title. Notice of rules may also be given other publicity as the commission may deem desirable.

(b) A certified copy, which may be certified by the director or the director's designee, of any rule or order of the commission constitutes prima facie evidence in any court of this state. A printed copy of any rule purporting or proved to have been adopted and published by the authority of the commission or as published in the code of Colorado regulations in accordance with section 24-4-103, C.R.S., is presumptive evidence of such rule and its adoption.

(c) All rules and orders of the commission, lawfully adopted and in force on December 31, 1984, continue to be effective until revised, amended, repealed, or nullified, or until they have expired, pursuant to law.

33-10-107. Powers of commission - rules - definitions. (1) The commission has power to:

(a) Acquire by gift, transfer, lease, purchase, or long-term operating agreement such land and water, or interests in land and water, as the director, with the approval of the executive director, deems necessary, suitable, or proper for parks and outdoor recreation purposes or for the preservation or conservation of sites, scenes, open space, and vistas of public interest. As used in this section, "interest in land and water" means any and all rights and interest in land less than the full fee interest, including future interests, easements, covenants, and contractual rights. Every interest in land and water held by the commission when properly recorded runs with the land or water to which it pertains for the benefit of the citizens of this state and may be protected and enforced by the commission in the district court of the county in which the land or water, or any portion thereof, is located.

(b) Lease, exchange, or sell any property, water rights, land, or interest in land or water rights, including oil, gas, and other organic and inorganic substances which now are or may become surplus or which, in the proper management of the division, the commission desires to lease, exchange, or sell. All sales of property, water rights, or lands shall be at public sale, and the commission has the right to reject any or all bids. As used in this paragraph (b), "exchange" means the transferring of property, water rights, land, or interest in land or water rights to another person in consideration for the transfer to the commission of other property, water rights, land, or interest in land or water rights, or cash, or any combination thereof; except that any cash received may not exceed fifty percent of the total value of the consideration. A transaction otherwise qualifying as an exchange is not deemed a sale merely because dollar values have been assigned to any property, water rights, land, or interest in land or water rights, for the purpose of ensuring that the commission will receive adequate compensation.

(c) Construct, lease, or otherwise establish public parks or outdoor recreational facilities and conveniences at any site or on any land controlled by the commission or in which it holds an interest, operate and maintain any such lands, facilities, and conveniences, and provide services with respect thereto, and, when appropriate, make reasonable charges for their use or enter into contracts for their maintenance or operation;

(d) Enter into cooperative agreements with state and other agencies, educational institutions, municipalities, political subdivisions, corporations, clubs, landowners, associations, and individuals for the development and promotion of parks and outdoor recreation programs;

(e) (I) Receive and expend:

(A) Grants, gifts, and bequests, including federal moneys, made available for the purposes for which the commission is authorized; and

(B) Moneys made available to the division for the purpose of mitigating or offsetting adverse impacts of development on state parks or state recreation areas.

(II) The commission may provide matching funds whenever appropriate moneys are

available. The commission shall provide such information as may be required in order to secure matching funds. The receipt and expenditure of money so received shall be reported to the executive director prior to the time of submission of the commission's annual budget requests.

(f) Contract with the political subdivisions of the state for development, operation, and maintenance of parks and outdoor recreation areas owned by any such political subdivision, but any such contract need not transfer possession or right of possession from said political subdivision;

(g) Encourage the organization of public parks and outdoor recreational activities in political subdivisions of the state;

(h) Establish by rules pursuant to section 33-10-111 (5) the amounts of fees for certificates, permits, licenses, and passes and any other special charges in order to provide for cash revenues necessary for the continuous operation of the state park and recreation system, subject to section 33-10-115; except that no such fees shall be used for capital construction other than controlled maintenance activities. Except as provided in section 33-10-111 (1), fees and charges collected pursuant to this paragraph (h) shall be credited to the division of parks and outdoor recreation cash fund.

(2) In the event that the commission plans to acquire the fee title to any real property at a cost that exceeds one hundred thousand dollars or to acquire an easement for a period that exceeds twenty-five years or at a cost that exceeds one hundred thousand dollars or to enter into any lease agreement for the use of real property for a period that exceeds twenty-five years or at a cost that exceeds one hundred thousand dollars, or to sell or otherwise dispose of such property, after the commission has approved of the transaction but before it has completed the transaction, the commission shall submit a report to the capital development committee that outlines the anticipated use of the real property, the maintenance costs related to the property, the current value of the property, any conditions or limitations that may restrict the use of the property, and, in the event real property is acquired, the potential liability to the state that will result from the acquisition. The capital development committee shall review the reports submitted by the commission and make recommendations to the commission concerning the proposed land transaction within thirty days from the day on which the report is received. The commission shall not complete the transaction without considering the recommendations of the capital development committee, if the recommendations are made in a timely manner.

33-10-108. Duties of the division of parks and wildlife - definitions. (1) The division, unless otherwise provided by law, has the following duties:

(a) To enter into contracts and agreements with the United States or any appropriate agency thereof for purposes authorized under the federal "Land and Water Conservation Fund Act of 1965", as amended, and to keep financial and other records relating thereto;

(a.5) To enter into contracts and agreements with private organizations for purposes authorized under section 33-10-108.5 and to keep financial and other records relating thereto;

(b) To furnish such reports and information as may be reasonably necessary to enable appropriate officials and agencies of the United States to perform their duties under the federal "Land and Water Conservation Fund Act of 1965", as amended;

(c) To prepare, maintain, and keep up to date a comprehensive plan for the development of the outdoor recreation resources of this state;

(d) To receive and disburse federal moneys to carry out the purposes of a comprehensive statewide outdoor recreation plan, but, of such allocation, not more than seventy-five percent, exclusive of administrative costs, shall be retained for development of the state-operated facilities by the division. In the event that requests on behalf of any county, city, or other political subdivision do not fully utilize the federal aid funds available, the state may use such funds.

(e) To undertake projects for the development of the state resources for outdoor recreation, but areas acquired or developed pursuant to any program participated in by this state under the authority of this section or section 33-10-114 shall be publicly maintained and operated for outdoor recreational purposes by the division;

(f) To enter into and administer agreements with the United States, or any appropriate agency thereof, for the planning, acquisition, and development of projects involving participating federal aid funds on behalf of any county, city, or other political subdivision if such county, city, or other political subdivision gives necessary assurances to the division that it has available sufficient funds to meet its share of the cost of the project and that the acquired or developed areas will be operated and maintained in perpetuity at its expense for public outdoor recreation use. Funds distributed to a city, county, or any other political subdivision pursuant to this section and not utilized shall, pursuant to rules adopted by the commission, revert to the division for its use. Any administrative costs assessed by the division to any county, city, or other political subdivision for local projects shall be for actual administrative costs incurred by the division, not to exceed five percent of federal aid funds distributed to such political subdivision.

(g) To provide technical assistance and information to counties, cities, or other political subdivisions of the state for local planning, financing, construction, operation, and maintenance of recreational trails, including trails along lakes, streams, or reservoirs, in accordance with article 11 of this title;

(h) To study the availability of areas selected by the commission pursuant to section 33-10-106 (1) (h) for the establishment of trails under article 11 of this title and to recommend trails to be included in the Colorado greenway trails system.

(2) Pursuant to a contract or agreement with an organization authorized by section 33-10-108.5, the division may provide personnel services to help the organization carry out its interpretive or educational program and provide space at or within any state park, natural area, or facility, as defined in said section, for interpretive or educational materials provided by the organization.

(3) (a) Pursuant to a contract, intergovernmental agreement, or memorandum of understanding, the division may allow fire mitigation personnel and accompanying equipment and material under the control or supervision of a fire department to enter state parks, state recreation areas, and natural areas for the purpose of mitigating forest land or wildland fires in or around such parks, recreation areas, and natural areas. Permissible activities to be undertaken by a fire department under this paragraph (a) include, without limitation, prescribed burning as a component of wildfire mitigation or forest or wildland management and exercises to promote the training of firefighting personnel.

(b) As used in this subsection (3):

(I) "Fire department" shall have the same meaning as set forth in section 29-20-105.5 (2) (a), C.R.S.

(II) "Natural area" shall have the same meaning as set forth in section 33-33-103 (8).

33-10-108.5. Interpretive and educational services - agreements with nonprofit groups - definitions. (1) To provide interpretive or educational services at state parks, natural areas, and facilities, the division may enter into a contract or agreement with any private nonprofit, scientific, historic, volunteer, or educational organization organized primarily for the purpose of providing interpretive or educational services at such parks, natural areas, and facilities. An eligible organization may include, but is not limited to, a group designated as "friends of" an identified state park or area.

(2) In accordance with a contract or agreement under this section, an organization may:

(a) Offer interpretive or educational materials for sale at the state park, natural area, or facility for which the organization provides services under the terms of the contract. Net proceeds received from sales under this paragraph (a) shall be used to provide interpretive or educational services at the state park, natural area, or facility.

(b) Acquire display materials and equipment for exhibit at the state park, natural area, or facility for which the organization provides services under the terms of the contract;

(c) Support special state park, natural area, or facility interpretive or educational programs and other interpretive projects related to a specific park, natural area, or facility; or

(d) Support state park, natural area, or facility resource centers.

(3) As used in this section, "state parks, natural areas, and facilities" means:

(a) State parks;

(b) State recreation areas;

(c) Natural areas, as defined in section 33-33-103 (8); and

(d) Any state-owned facility related to or adjoining a park or area listed in paragraphs (a) to (c) of this subsection (3), whether indoor or outdoor, and including the department's management offices and other buildings.

33-10-109. Powers and duties of director. (1) It is the duty of the director to:

(a) Appoint such personnel, subject to the provisions of section 13 of article XII of the state constitution, as are necessary for the efficient operation of the division, including such personnel designated as parks and recreation officers. An employee of the division may be certified as a parks and recreation officer by the issuance of a parks and recreation officer law enforcement card. The commission card, signed by the director, shall evidence that such parks and recreation officer has satisfied the certification requirements established by the division, including basic certification from the peace officers standards and training board. Certified parks and recreation officers shall have the power to enforce the provisions of articles 10 to 15 and 32 of this title relating to parks and outdoor recreation areas and shall cooperate with the division of parks and wildlife in the enforcement of laws, rules, and regulations.

(b) Exercise general supervisory control over all activities, functions, and employees of the division;

(c) Repealed.

(d) Prepare such reports as the executive director requires the commission or director to submit;

(e) Authorize, with approval of the commission, such studies as are necessary to collect, classify, and disseminate statistics, data, and other information which, in the director's discretion, tend to accomplish the objectives of articles 10 to 15 and 32 of this title, consistent with the state policy as set forth in section 33-10-101;

(f) Appoint special parks and recreation officers who have the power to enforce articles 10 to 15 and 32 of this title and rules of the commission. Special parks and recreation officers commissions shall not be issued until the applicant has submitted an application to the division setting forth his or her qualifications. The director may revoke such appointments at any time.

(g) (I) Obtain from powersports vehicle manufacturers the engine rotations per minute needed to conduct the SAE J1287, as defined in section 25-12-102, C.R.S., and to make the information available to law enforcement agencies in Colorado;

(II) Provide, at the director's discretion, training programs to local law enforcement agencies concerning the enforcement of section 25-12-110 (1) and (2), C.R.S;

(III) Cooperate with federal agencies, Colorado agencies, and political subdivisions of Colorado to enforce section 25-12-110 (1) and (2), C.R.S.; and

(IV) Issue an annual report, by January 15 of each year, to the executive director and the agriculture, livestock, and natural resources committee of the house of representatives and the agriculture, natural resources, and energy committee of the senate, or any successor committees, containing the following information:

(A) The results of a survey of federal, state, and local governments to ascertain the success of the cooperation, education, training, and enforcement components of this paragraph (g) and section 25-12-110, C.R.S;

(B) The expenditures of moneys appropriated for providing training and purchasing of equipment to enforce section 25-12-110 (1) and (2), C.R.S., and any other sources of funding, public or private, for the implementation of this act deemed important by the director; and

(C) The progress and status of the cooperation efforts required by subparagraph (III) of this paragraph (g).

33-10-110. Expenses of employees. (1) In addition to their salaries, all employees of the division shall be reimbursed for all actual and necessary expenses incurred by them in the discharge of their official duties.

(2) In addition to the compensation paid employees of the division and in addition to reimbursement for all actual and necessary expenses as provided in subsection (1) of this section, each employee of the division who is vested with the rights and powers of a certified parks and recreation officer, including the chief enforcement officer and the assistant chief enforcement officer, shall, because of the number of hours and the extraordinary service performed by such an employee, be further reimbursed for maintenance and ordinary expenses incurred in the

performance of his duties in such amount as shall be determined by the director, but the amount authorized under this subsection (2) for any such employee of the division shall not exceed the sum of fifty dollars per month.

33-10-111. Parks and outdoor recreation cash fund - parks for future generations trust fund - created - fees - accounting expenditures for roads and highways - definition - repeal. (1) Except as provided in subsection (6) of this section and sections 33-14-106, 33-14.5-106, and 33-15-103, all moneys derived pursuant to articles 10 to 15 of this title from division facilities and fees, and all interest earned on such moneys, shall be credited to the parks and outdoor recreation cash fund, which is hereby created, together with all moneys donated, transferred, or appropriated from whatever source for the use of the division in administering, managing, and supervising the state parks and outdoor recreation system and in the financing of impact assistance grants pursuant to part 3 of article 25 of title 30, C.R.S. All cash receipts from state-owned desert, saline, and internal improvement lands shall be credited to the parks and outdoor recreation cash fund.

(2) The director, with the consent and approval of the executive director, is authorized and directed to establish an adequate system of accounting which will accurately record:

(a) All moneys received and from what sources;

(b) All moneys expended and for what purposes;

(c) All passes, permits, and registrations that are issued, numbering each type separately.

(3) In his annual budget request to the governor, the executive director shall clearly show the allocation of funds used for parks and outdoor recreation purposes among operations, land acquisition, capital construction, and other purposes.

(4) At each regular session, the general assembly shall determine the amounts to be expended by the division for the acquisition of rights-of-way for the construction, improvement, repair, and maintenance of public roads and highways in state recreation areas and parks and shall appropriate such amounts from the state allocation provided by section 43-4-206, C.R.S., from the highway users tax fund to the division as are necessary to accomplish these purposes.

(5) (a) Subject to this subsection (5), the commission may set fees by rule for the use of facilities and programs of the division, including discounts for marketing purposes. The commission shall:

(I) Before adopting any such rule, provide the joint budget committee with the proposed rule and the commission's analysis of the proposed rule;

(II) By November 1 of each year, submit a list of such fees to the general assembly's joint budget committee, the finance committees of the senate and the house of representatives, the house agriculture, livestock, and natural resources committee, and the senate agriculture, natural resources and energy committee.

(b) (I) All actions of the commission to change fees are subject to the requirements of the "State Administrative Procedure Act", article 4 of title 24, C.R.S. Whenever the commission desires to change any fee, the commission shall conduct rule-making, with timely notice and an opportunity for comment by interested parties.

(II) In its annual budget request to the general assembly, the commission shall include

the amount of any fee changed, proposed, or under consideration by the commission.

(III) and (IV) Repealed.

(c) This subsection (5) is repealed, effective September 1, 2017.

(6) (a) (I) (A) There is hereby created in the state treasury the parks for future generations trust fund. The fund consists of moneys appropriated to the fund by the general assembly, moneys received from energy or mineral royalties or leases of energy or mineral rights on park properties, and gifts, grants, and donations.

(B) For purposes of this subparagraph (I), "park properties" means each state park and state recreation area and any other park properties in which the division owns mineral interests.

(II) No less than fifty percent of the total moneys deposited in the fund other than interest shall be accrued and maintained intact, and the remaining balance of the moneys deposited into the fund may be expended subject to appropriation by the general assembly; except that the interest earned on moneys in the fund is continuously appropriated and may be expended on such property operation and maintenance and other park projects and programs as the commission deems appropriate.

(b) The fund is under the control of and administered by the commission. The controller shall authorize disbursements from the fund as directed by the commission on receipt of a voucher from the commission stating that the disbursement is in accordance with this subsection (6).

(c) The commission shall submit an annual report of the moneys expended from the fund and matters accomplished by the expenditures from the preceding fiscal year to the senate agriculture, natural resources, and energy committee and the house of representatives agriculture, livestock, and natural resources committee, or their successor committees, by the convening date of each regular session of the general assembly in accordance with section 24-1-136 (9), C.R.S. The commission shall also submit to these committees a report on moneys proposed to be expended from the fund and the matters to be accomplished by the expenditures in the upcoming fiscal year.

(d) All moneys and interest in the fund remain in the fund to be used for the purposes set forth in this subsection (6) and shall not be deposited in or transferred to the general fund or any other fund.

33-10-111.5. Parks and outdoor recreation emergency reserve cash fund - stores revolving fund - created. (1) There is hereby created in the state treasury a fund to be known as the parks and outdoor recreation emergency reserve cash fund. Moneys in an amount as specified in subsection (2) of this section from the parks and outdoor recreation cash fund created in section 33-10-111 that are not otherwise expended pursuant to that section shall be credited to the parks and outdoor recreation emergency reserve cash fund. Such fund shall be available to be used if there are insufficient funds in the parks and outdoor recreation cash fund at the end of any fiscal year for appropriations affecting the division made in that fiscal year.

(2) For the fiscal year 2008 and for each fiscal year thereafter, the balance in the parks and outdoor recreation emergency reserve cash fund shall increase by one percent of the overall appropriation to the division of parks and wildlife for state park operations; except that the

balance in the parks and outdoor recreation emergency reserve cash fund shall not exceed ten percent of the total amount appropriated for state park operations.

(3) The parks and outdoor recreation cash fund shall not be unreasonably used to offset any general fund restriction or reduction that is imposed on the department of natural resources.

(4) There is hereby created a stores revolving fund in the amount of two hundred thousand dollars, which amount shall be maintained to acquire stock for warehousing and distributing supplies for retail sales to visitors. The moneys in such fund shall under no circumstances be used for the payment of operating expenses but shall be maintained intact as a revolving fund of two hundred thousand dollars, composed of the following assets: Cash, accounts receivable, and inventory supplies. The purpose of the fund is to provide better budgetary control, and nothing contained in this subsection (4) shall authorize the division to make any purchases or acquisitions in any manner except as provided by law. Any surplus in the revolving fund in excess of two hundred thousand dollars shall revert to the parks and outdoor recreation cash fund at the close of each fiscal year.

33-10-112. Federal aid projects income fund. There is hereby created a fund designated as the federal aid projects income fund to which shall be credited certain revenues and earnings derived from properties purchased and operated jointly by the United States government and the state of Colorado under the provisions of this article, and the provisions of the acts of congress referred to therein, and the rules and regulations of the United States department of the interior. Such revenues and earnings so credited shall be limited to those specific revenues and earnings to which each has a right under the provisions of cooperative agreements establishing such rights. All moneys credited under the provisions of this section are specifically appropriated for the purposes for which such moneys may accrue.

33-10-113. Designation of agency. The division is authorized to accept and administer funds provided for the planning and development of the outdoor recreation resources of this state pursuant to the provisions of the act of congress entitled the "Land and Water Conservation Fund Act of 1965", as amended. In connection with obtaining for the state of Colorado the benefits of any such programs, the division shall coordinate its activities with and represent the interest of all agencies of the state and of counties, cities, and other local governments having an interest in the planning, development, and maintenance of outdoor recreation resources within the state.

33-10-114. Limitation on division and commission authority. (1) Neither the commission nor the division shall enter into any mitigation agreements with any agency of the federal government relating to the transfer or exchange of land or water condemned by the federal government without the express consent of the general assembly.

(2) Nothing in subsection (1) of this section prevents the commission or the division from entering into common agreements with a federal agency pertaining to the administration or management of federally owned lands.

33-10-115. Use of parks and recreational areas by nonprofit search and rescue organizations - definitions - rules. (1) This section shall be known and may be cited as the "Colorado Search and Rescue State Parks Usage Act".

(2) As used in this section:

(a) "Park, recreation area, or facility" means:

(I) A state park;

(II) A state recreation area; or

(III) A state-owned facility that is open to the public and related to or adjoining a state park or a state recreation area.

(b) "Public or nonprofit search and rescue organization" means a not-for-profit entity that performs search and rescue, disaster relief, or national defense missions in Colorado. The term includes, without limitation, the Colorado civil air patrol, governmental search and rescue organizations, and the Colorado search and rescue board.

(c) "Training activities" means official drills, exercises, live missions, or other such activities that provide instruction to search and rescue personnel, that are conducted at any time of the day, including, without limitation, overnight or over several days and nights.

(3) A public or nonprofit search and rescue organization shall be exempt from all park fees when the organization is using a park, recreation area, or facility to conduct training activities.

(4) The commission shall promulgate rules as are reasonably necessary to implement this section.

ARTICLE 10.5

Aquatic Nuisance Species

33-10.5-101. Legislative declaration. The general assembly hereby recognizes the devastating economic, environmental, and social impacts of aquatic nuisance species on the aquatic resources and water infrastructure of the state. The general assembly further recognizes the potential of recreational vessels to be a significant source of the spread of aquatic nuisance species in Colorado. Therefore, the general assembly finds, determines, and declares that the purposes of enacting this article are to implement actions to detect, prevent, contain, control, monitor, and, whenever possible, eradicate aquatic nuisance species from the waters of the state and to protect human health, safety, and welfare from aquatic nuisance species. It is the intent of the general assembly to foster and encourage, to the greatest extent possible, voluntary compliance with this article. It is the intent of the general assembly that prevention, containment, and eradication of aquatic nuisance species in waters of the state in which such species have been

detected or are likely to be introduced shall be the division's highest priorities.

33-10.5-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Aquatic nuisance species" means exotic or nonnative aquatic wildlife or any plant species that have been determined by the commission to pose a significant threat to the aquatic resources or water infrastructure of the state.

(2) "Authorized agent" means any person, employee, or representative of local, state, or federal government or any subdivision of the government that is authorized by the government or governmental subdivision to temporarily stop, detain, and inspect a conveyance for aquatic nuisance species.

(3) Repealed.

(4) "Conveyance" means a motor vehicle, vessel, trailer, or any associated equipment or containers, including, but not limited to, live wells, ballast tanks, and bilge areas that may contain or carry an aquatic nuisance species.

(5) "Decontaminate" means to wash, drain, dry, or chemically or thermally treat a conveyance in accordance with rules promulgated by the commission in order to remove or destroy an aquatic nuisance species.

(6) "Division" means the division of parks and wildlife created in section 33-9-104.

(7) "Equipment" means an article, tool, implement, or device capable of containing or transporting water.

(8) "Inspect" means to examine a conveyance pursuant to procedures established by the commission by rule in order to determine whether an aquatic nuisance species is present, and includes examining, draining, or chemically treating water in the conveyance.

(9) "Qualified peace officer" means a Colorado wildlife officer, special parks officer, or special wildlife officer; a parks and recreation officer; a peace officer in the department of public safety; and a peace officer with jurisdiction over any waters of the state.

33-10.5-103. Powers and duties of the division - annual report. (1) In order to prevent, control, contain, monitor, and, whenever possible, eradicate aquatic nuisance species from the waters of the state, the division is authorized to establish, operate, and maintain aquatic nuisance species check stations in order to inspect conveyances pursuant to section 33-10.5-104.

(2) Upon a reasonable belief that an aquatic nuisance species may be present, the division may:

(a) Require the owner of a conveyance to decontaminate the conveyance; or

(b) Decontaminate or impound and quarantine the conveyance pursuant to section 33-10.5-104.

(3) The division may monitor the waters of the state for the presence of aquatic nuisance species, but only if the division has received permission to monitor from the persons controlling access to such waters.

(4) The division shall, in cooperation with the department of public safety, the Colorado

office of economic development, the Colorado tourism office, the water conservation board created in section 37-60-102, C.R.S., and the department of agriculture, develop a strategic statewide plan to prevent, control, monitor, educate persons about, and, whenever possible, eradicate aquatic nuisance species.

(5) Beginning on January 15, 2009, and on or before January 15 of each year thereafter, the division and the water conservation board created in section 37-60-102, C.R.S., shall make an annual report of the efforts in addressing aquatic nuisance species in Colorado for the preceding calendar year to the joint house agriculture, livestock, and natural resources committee and the senate agriculture, natural resources, and energy committee, or its successor committee. Each such report shall set forth a complete operating and financial statement covering the aquatic nuisance species operations of the division during the year.

33-10.5-104. Inspection of conveyances - impoundment and quarantine. (1) (a) Every qualified peace officer is authorized to enforce this article; except that such officer shall have a reasonable belief that a conveyance may contain an aquatic nuisance species before the officer orders the conveyance decontaminated or impounded and quarantined.

(b) Every qualified peace officer is authorized to stop and inspect for the presence of aquatic nuisance species a conveyance:

(I) Prior to a vessel being launched onto waters of the state;

(II) Prior to departing from the waters of the state or a vessel staging area;

(III) That is visibly transporting any aquatic plant material; and

(IV) Upon a reasonable belief that an aquatic nuisance species may be present.

(2) Except as provided in subsection (4) of this section, a qualified peace officer may impound and quarantine a conveyance if:

(a) The qualified peace officer finds or reasonably believes that an aquatic nuisance species may be present after conducting an inspection authorized by this article;

(b) The person transporting the conveyance refuses to submit to an inspection authorized by this article for the presence of an aquatic nuisance species; or

(c) The person transporting the conveyance refuses to comply with an order authorized by this article to decontaminate the conveyance.

(3) The impoundment and quarantine of a conveyance may continue for the reasonable period necessary to inspect and decontaminate the conveyance and ensure that the aquatic nuisance species has been completely eradicated from the conveyance and is no longer living.

(4) Notwithstanding any provision to the contrary, no motor vehicle that is drawing a conveyance shall be impounded or quarantined pursuant to this article; however, the conveyance being drawn is still subject to impoundment and quarantine under this section.

(5) An authorized agent shall have the authority to stop, detain, and inspect a conveyance for the presence of an aquatic nuisance species; however, unless the authorized agent is a qualified peace officer, the authorized agent has no authority to impound and quarantine or order a conveyance decontaminated.

33-10.5-105. Prohibition of aquatic nuisance species - penalties. (1) No person shall:

(a) Possess, import, export, ship, or transport an aquatic nuisance species;

(b) Release, place, plant, or cause to be released, placed, or planted into the waters of the state an aquatic nuisance species; or

(c) Refuse to comply with a proper order issued under this article.

(2) A person who knowingly or willfully violates subsection (1) of this section:

(a) For a first offense, is guilty of a class 2 petty offense, as defined by section 18-1.3-503, C.R.S., and, upon conviction, shall be subject to a fine of one hundred fifty dollars and shall be issued a warning of the increased penalties for subsequent violations from the division;

(b) For a second offense, is guilty of a misdemeanor and, upon conviction, shall be fined one thousand dollars; and

(c) For a third and any subsequent offense, commits a class 2 misdemeanor and, upon conviction, shall be punished as provided in section 18-1.3-501, C.R.S.

33-10.5-106. Duty to report. A person who knows that an aquatic nuisance species is present at a specific location shall immediately report such knowledge and all pertinent information to the division.

33-10.5-107. Commission to promulgate rules. (1) The commission is authorized to promulgate rules pursuant to article 4 of title 24, C.R.S., as necessary to prevent, control, contain, monitor, and, whenever possible, eradicate aquatic nuisance species. In promulgating such rules, the commission shall consult with any affected state, federal, and tribal governmental entities and subdivisions thereof, including special districts, water conservancy districts, and water supply agencies.

(2) The commission shall promulgate rules to administer and enforce this article. Such rules shall include:

(a) Procedures for the inspection of conveyances for the presence of aquatic nuisance species;

(b) Procedures for the impoundment and quarantine of conveyances pursuant to section 33-10.5-104, including notification of the location and contact information to owners of impounded conveyances;

(c) Procedures for the decontamination of conveyances and destruction of aquatic nuisance species removed from conveyances;

(d) Methods to establish proof that a conveyance has been decontaminated;

(e) Processes for the facilitation of the reporting required by section 33-10.5-106; and

(f) Policies for the monitoring and identification of the waters of the state or geographic areas that are or may be infested with aquatic nuisance species.

33-10.5-108. Division of parks and outdoor recreation aquatic nuisance species fund

- creation - division of wildlife aquatic nuisance species fund - creation. (1) (a) There is hereby created in the state treasury the division of parks and outdoor recreation aquatic nuisance species fund, which shall be administered by the division of parks and wildlife in the department of natural resources and shall consist of all moneys transferred by the treasurer as specified in section 39-29-109.3 (2) (m), C.R.S. All moneys in the fund are continuously appropriated to the division of parks and wildlife for the purpose of implementing the provisions of this article. All moneys in the fund at the end of each fiscal year shall remain in the fund and shall not revert to the general fund or any other fund.

(b) In the use of such moneys, priority shall be given to containment and eradication of aquatic nuisance species in the waters of the state in which such species have been detected and prevention of the introduction of nuisance species in areas determined to be most vulnerable to such an introduction.

(2) (a) There is hereby created in the state treasury the division of wildlife aquatic nuisance species fund, which shall be administered by the division of parks and wildlife in the department of natural resources and shall consist of all moneys transferred by the treasurer as specified in sections 33-1-112 and 39-29-109.3 (2) (m), C.R.S. All moneys in the fund are continuously appropriated to the division of parks and wildlife for the purpose of implementing the provisions of this article. All moneys in the fund at the end of each fiscal year shall remain in the fund and shall not revert to the general fund or any other fund.

(b) In the use of such moneys, priority shall be given to containment and eradication of aquatic nuisance species in the waters of the state in which such species have been detected and prevention of the introduction of nuisance species in areas determined to be most vulnerable to such an introduction.

ARTICLE 11

Recreational Trails

33-11-101. Short title. This article shall be known and may be cited as the "Recreational Trails System Act of 1971".

33-11-102. Legislative declaration. (1) In order to provide for the greatly increasing outdoor needs of a rapidly expanding Colorado population for public access to, travel within, and enjoyment and appreciation of the out-of-doors areas of Colorado and for the conservation, development, and use of natural resources against fire and other natural and geological hazards, it is hereby declared to be the public policy of this state and among the purposes of this article to: Increase the accessibility and encourage the use of such natural resources by the residents of this state and by nonresidents; provide opportunity for the development of public and private

facilities for persons visiting and utilizing the natural resources of this state; encourage an increase in riding, hiking, bicycling, and other compatible recreational activities as influences for the improvement of the health and welfare of the people; and to provide for the needs of specialized recreational motor vehicles. It is recognized that joint simultaneous trail use by motorized and nonmotorized interests may at times be incompatible, and it is the intent of this article to provide separate trails and facilities for each of such motorized and nonmotorized interests, when feasible.

(2) To implement the provisions of subsection (1) of this section and as additional purposes of this article, the state may: Establish and maintain trails on a statewide basis to connect, when feasible and practical, the units of the parks and outdoor recreation system, federal recreational lands, and other trails systems; perpetuate and provide the use of and access to regions and trails of special or historic interest within the state; assist local governments in serving the requirements of the urban and other population centers of the state; encourage the multiple use of public rights-of-way and utilize to the fullest extent the existing and future scenic roads, highways, parkways, and federally administered trails where feasible as recreational trails; encourage the development and maintenance of recreational trails by counties, cities, and special improvement districts and assist in such development and maintenance by all means available; coordinate trail plans and development among legal jurisdictions and with the state and federal governments; encourage, when possible, the development of trails on federal lands by the federal government; and promote at all levels of government a more complete use of all or any portion of public property for recreational purposes.

(3) A further purpose of this article is to promote the establishment and operation of a statewide network of trails, to be known as the "Colorado greenway trails system", along and between the state's lakes, streams, or reservoirs linking cities, towns, communities, and river basins. The Colorado greenway trails system shall be established and operated in a manner that promotes recreational opportunities along lakes, streams, or reservoirs, that provides access to and is a part of an integrated trail system, that protects water rights and real property rights, and that minimizes conflicts between recreationists and others to minimize adverse impacts on natural features and sensitive habitats.

33-11-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Committee" means the Colorado recreational trails committee.

(2) "Local government" means a city, town, county, city and county, or political subdivision of the state charged by law with and engaged in the administration of a parks or recreation program.

(3) "Motorized trails" means trails for the use of motorized vehicles where designated in the trail plan and as posted on the trail, as may be required by law.

(4) "Nonmotorized trails" means riding, hiking, bicycling, and other recreational trails for the use of the public on which motorized vehicles are prohibited except in emergencies.

(5) "Recreational trail" means a trail which is used for a recreational purpose, such as hiking, horseback riding, snowshoeing, cross-country skiing, bicycling, or the riding of motorized recreational vehicles along routes of scenic, natural, historic, geologic, or water-

oriented interest.

(6) "Riders" and "riding" means, respectively, horseback riders and horseback riding, snowmobile riders and snowmobiling, and recreational vehicle riders and recreational vehicle riding.

(7) "Trail corridor" means the recreational trail plus a scenic or recreational easement, if such easement is acquired as a part of the recreational trail and if it is essential to the recreational experience of the trail user.

33-11-104. Acquisition. (1) In order to provide recreational trails in a statewide system of positive recreational value, the division may acquire reasonable trail rights-of-way or easements. In selecting the rights-of-way, full consideration shall be given to minimizing the adverse effects upon the adjacent landowner or user and his operation. Development and management of each segment of the trails system shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land. Acquisition shall be, whenever possible, through donations, purchased with donated funds, or through easements and exchanges. When such methods fail, the division may authorize expenditure of state appropriations for acquisition in fee. Agreements for less than fee shall be for terms of not less than twenty-five years whenever possible.

(2) The division may abandon all or any portion of a trail or easement acquired for trail purposes which is no longer necessary for such purposes, or it may transfer any trail or easement acquired for trail purposes to a local government having jurisdiction over the area in which the trail or easement is located if such local government agrees to maintain and operate the trail.

(3) The division shall notify the owner of land through which any trail or easement acquired for trail purposes passes prior to entering into an operating agreement for that trail with any local government, and it shall secure the consent of the landowner prior to the transfer of any trail or easement acquired for trail purposes to a local government.

(4) Nothing in this article shall permit the acquisition of recreational trails by proceedings in eminent domain by any state agency or any unit of local government or any agency thereof; except that, when a recreational trail is included within a highway right-of-way, the department of transportation may acquire such contiguous land as a part of the right-of-way as is necessary to permit the uninterrupted continuation of the recreational trail.

(5) Nothing in this section modifies, impairs, or supersedes the authority of the commission or the ability of the division to acquire any interest in water or water rights pursuant to section 33-10-107 (1) (a).

(6) Trails acquired pursuant to this article shall not be used for purposes of annexation or access to private lands. Access to private property may be allowed upon consent of the landowner. Nothing in this subsection (6) shall preclude the annexation of private lands with the consent of the landowner.

33-11-105. Recreational trails committee. (1) There is hereby created the Colorado

recreational trails committee, which is advisory and consists of nine members, eight of whom are appointed by the commission. One member shall be appointed from the governing committee of the state board of the great outdoors Colorado trust fund created by section 6 of article XXVII of the state constitution. The terms of the members appointed by the commission are four years. No member shall serve more than two consecutive terms. One member shall be appointed from each congressional district, one member shall be appointed from the state at large, and one member shall represent and be appointed by the state board of the great outdoors Colorado trust fund. The committee shall include in its membership representation of the broad spectrum of trail users. Vacancies on the committee shall be filled for the unexpired term by the appropriate appointing authority set forth in this subsection (1).

(2) The committee shall meet not less than four times annually to advise the division on all matters directly or indirectly pertaining to trails and their use, extent, and location and the objectives and purposes of this article.

(3) Repealed.

33-11-106. Responsibilities of committee. (1) The committee, with the approval of the commission, shall coordinate trail development among local governments and shall assist local governments in the formation of their trail plans and advise the commission quarterly of its findings. In carrying out this responsibility, the committee shall review records of easements and other interests in land which are available and may be adapted for recreational trail usage, including public lands, utility easements, floodplains, railroad and other rights-of-way, geological hazard areas, gifts of land or interests therein, and steep slope areas. The committee shall advise the commission in the development of uniform standards for trail construction that may be adopted by the commission for statewide use and that shall be made available to participating local governments. The committee shall offer plans and methods for funding a trails system through user fees or other financing methods.

(2) Repealed.

33-11-107. Availability of funds. The commission is authorized to make funds appropriated by the general assembly for the purposes of this article available to local governments and nonprofit organizations in accordance with criteria developed by the committee and adopted by the commission. The committee shall advise the commission of its recommendations for the allocation of such funds among participating local governments and nonprofit organizations.

33-11-108. State trails system. (1) The commission shall designate a state trails system. The trails comprising such system shall meet criteria established by the commission and shall be consistent with the objectives of this article.

(2) The commission shall establish a procedure whereby federal, state, and local governments and nongovernmental organizations may propose trails for inclusion within the

system.

(3) In consultation with appropriate federal, state, and local governments and nongovernmental organizations, the commission shall establish a procedure for review and public hearings upon proposals for the inclusion of trails in the system.

(4) The commission may participate in the planning, establishment, development, and long-term operation and maintenance of segments of national scenic trails which might be authorized by the congress of the United States.

(5) The establishment of trails to or along lakes, streams, or reservoirs shall not constitute any determination relative to the suitability of the river segment for designation as a wild, scenic, or recreational river under the federal "Wild and Scenic Rivers Act".

33-11-109. Trail categories - rules. (1) Any of the following categories of trails may be established:

(a) Cross-state trails which connect scenic, historical, geological, or other significant features which are characteristic of the state;

(b) Water-oriented trails which provide a designated path to or along lakes, streams, or reservoirs in which water and other water-oriented recreational opportunities are the primary points of interest;

(c) Scenic-access trails which give access to quality recreation, scenic, historic, or cultural areas of statewide or nationwide significance;

(d) Urban trails which provide opportunities within an urban setting for walking, bicycling, horseback riding, or other compatible activities. Where appropriate, urban trails shall connect parks, scenic areas, historical points, and neighboring communities.

(e) Historical trails which identify and interpret routes which were significant in the historical settlement and development of the state.

(2) The planning and designation of trails for the state trails system shall take into account and give due regard to the interests of federal agencies, state agencies, individuals, and interested recreation organizations. The categories set forth in subsection (1) of this section need not be used to label specific trails, but the division shall assure that full consideration is given to including trails from all categories within the system.

(3) The commission, through the division, is authorized to conduct studies, and to promulgate such rules as may be necessary for establishing and managing the Colorado greenway trails system. The commission shall consult and cooperate with the Colorado water conservation board, transportation commission, Colorado water resources and power development authority, and all other appropriate units of state government and political subdivisions of the state, including any county, city, city and county, and water conservation and conservancy district; any other public and private persons; and any appropriate federal agencies to establish a Colorado greenway trails system that minimizes adverse impacts on activities, natural features, and sensitive habitats adjacent to trails.

33-11-110. Uniform signs and markers. The commission may establish uniform signs

and markers, which signs and markers may include appropriate and distinctive symbols. Where trails cross lands administered by federal agencies, such markers may be provided and erected by the appropriate federal agency at appropriate points along trails and maintained by the federal agency administering the trails in accordance with standards mutually established by the division and the federal agency concerned. Where trails cross lands of state or local governmental agencies, the division may provide such uniform signs and markers to such agencies in accordance with written agreements and may require such agencies to erect and maintain them in accordance with standards established in such agreements.

33-11-111. Cooperation with state agencies. The department of transportation, the state board of land commissioners, the urban drainage and flood control district, and other state agencies and political subdivisions having jurisdiction or control over or information concerning the use, abandonment, or disposition of highway or utility rights-of-way or other properties that may be suitable for the purpose of improving or expanding the state trails system shall cooperate with the division to assure, to the extent practicable, that any such properties that are suitable for trail purposes may be made available for such use.

33-11-112. Trails enforcement. It is unlawful for any person, except a parks and recreation officer or other peace officer, to operate a motorized vehicle on a signed and designated nonmotorized trail. Any person who violates this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of one hundred fifty dollars.

ARTICLE 12

Passes and Registrations

33-12-100.2. Legislative declaration. The general assembly hereby finds, determines, and declares that the system of state parks and state recreation areas is vital to the economic health and well-being of the entire state of Colorado and that such system of parks and recreation areas provides an important benefit to the citizens of this state and to the tourists from outside the state who visit and make use of such state parks and recreation areas. Because of the nature and operation of such state parks and recreation areas, the system can be largely self-supporting, and the users of such resources can help to fund the system's operation and maintenance. The general assembly declares and intends that as a matter of state policy the system of state parks and state recreation areas should be financed as much as reasonably possible through revenues derived from the users of such system.

33-12-101. Passes and registrations - rules - definition. (1) (a) Except as specified in section 33-12-103 (1) (b), every pass or registration expires on the date printed or written on the face of the document. The commission may adopt rules establishing a subscription program through which a person to whom an annual pass has been issued pursuant to this article is notified, prior to the expiration of the pass, of the opportunity to renew the pass by mail or other means determined by the commission. As used in this article, "document" means pass or registration.

(b) When, in articles 10 to 15 and 32 of this title or a rule adopted pursuant thereto, the doing of an act between certain dates or from one date to another is allowed or prohibited, the period of time indicated includes both dates specified.

(2) Money received in payment for passes and registrations issued under articles 10 to 15 of this title shall not be refunded, except as follows:

(a) For proven errors committed by the division in issuing passes or registrations;

(b) For bona fide emergencies as may be determined by the division.

(3) In the event of loss or destruction of a pass or registration, the person to whom the document was issued, upon payment of a fee of fifty percent of the cost of the original document, but not to exceed five dollars, may obtain a replacement pass or registration by signing an affidavit stating where and by whom said document was issued and the circumstances under which the document was lost or destroyed. If the division determines that a pass or registration has been lost or destroyed in the mail, the person to whom the document was issued may obtain a replacement pass or registration without charge by signing an affidavit stating that such document was never received. The division shall supply agents selling such documents with affidavit forms for obtaining a replacement pass or registration.

33-12-102. Types of passes and registrations - fees - repeal. (Repealed)

33-12-103. Aspen leaf annual pass - aspen leaf lifetime pass - rules - report. (1) (a) A resident of this state, as defined in section 33-10-102, may obtain from the division an aspen leaf annual pass, which pass is valid from the date the pass is purchased through the last day of the month of purchase in the following year. The commission shall determine the age of eligibility for the aspen leaf pass.

(b) (I) A resident of this state, as defined in section 33-10-102, may obtain from the division an aspen leaf lifetime pass, which is valid from the date the pass is purchased through the lifetime of the pass holder. The age of eligibility for the aspen leaf lifetime pass is the same as that for the aspen leaf annual pass pursuant to paragraph (a) of this subsection (1). Notwithstanding any provision of law to the contrary, the fee for the aspen leaf lifetime pass is as set by rule of the commission; except that the fee shall not exceed five times the cost of the aspen leaf annual pass.

(II) (A) The aspen leaf lifetime pass shall not be sold on or after March 1, 2014.

(B) Prior to that date but during the second regular session of the sixty-ninth general assembly, the department shall prepare and deliver a report to the senate agriculture and natural resources committee and the house of representatives agriculture, livestock, and natural resources committee, or their successor committees, evaluating the aspen leaf lifetime pass. The report shall include, at a minimum, the number of aspen leaf lifetime passes sold and the financial impacts of the aspen leaf lifetime pass.

(2) Except as provided by rule of the commission, for the purpose of this section, the holder of an aspen leaf annual pass or aspen leaf lifetime pass shall own in whole or in part any vehicle used to enter a park area, the vehicle shall have a current valid registration issued by the department of revenue, and the pass holder shall be present in the vehicle. An aspen leaf pass or aspen leaf lifetime pass entitles the holder to enter state park and recreation areas during the period that the pass is valid and when such areas are open.

(3) Each aspen leaf annual pass issued shall be affixed to the vehicle for which it was issued in the manner prescribed by rule promulgated by the commission. Each aspen leaf lifetime pass shall be displayed by the person to whom it was issued, in the manner prescribed by the commission by rule, when the person enters a state park or state recreation area.

(4) The continued use of the aspen leaf annual pass and the aspen leaf lifetime pass shall be subject to the holder's observance of rules concerning the state park or the state recreation area. For a violation of any of such rules, the division has the power to suspend the pass for six months; for a second violation, for one year; and, for a third violation, indefinitely. Any person aggrieved by an action of the division taken pursuant to this subsection (4) may appeal such action in accordance with the procedures provided in article 4 of title 24, C.R.S.

33-12-103.5. Columbine annual pass - rules. (1) As used in this section, unless the context otherwise requires, a person is "disabled" if the person has been determined to be totally and permanently disabled by the social security administration, the division of workers' compensation, or pursuant to rule or regulation of the division.

(2) (a) A disabled resident may obtain from a regional office or the central office of the division, or at such other locations as may be determined by the division, a Columbine annual pass. The pass shall be valid from the date the pass is purchased through the last day of the month of purchase in the following year. A columbine annual pass shall entitle the disabled resident to enter state park and recreation areas during the period that the pass is valid and when such areas are open.

(b) The commission, by rule, shall provide for a transferable columbine annual pass that is valid when temporarily affixed to any vehicle used to bring such pass holder into a park.

(3) The continued use of the columbine annual pass shall be subject to the holder's observance of rules and regulations concerning the state park or state recreation area.

33-12-104. Pass and registration agents - reports - board of claims - unlawful acts - rules. (1) The director may designate sole proprietors, partnerships, or corporations having permanent business locations in this state as pass and registration agents to sell, at their

permanent business locations, passes and registrations. Pass and registration agents shall be paid a commission on all moneys collected for passes and registrations sold by such agents in an amount determined by the commission by rule. All agents authorized to sell passes and registrations shall keep accurate records of all sales of passes and registrations and shall make such reports to the division regarding pass and registration sales as may be required. 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 to insure the remittance of all moneys collected from such pass and registration sales, less amounts allowed as commissions, and the making of reports required by the division. The commission may promulgate rules for the establishment and cancellation of pass and registration agencies. All pass and registration moneys received shall be kept separate and apart from any other moneys of the agent authorized to sell passes and registrations and shall at all times belong to the state. All moneys due from the sale of passes and registrations 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.

(2) The executive director, state auditor, and attorney general, or their duly designated representatives, shall constitute a board of claims for the hearing of all claims for relief when any agent is unable to account for passes and registrations and claims that the same have been destroyed, lost, or stolen. The findings of the board of claims are subject to review pursuant to section 24-4-106, C.R.S. Claims for relief in an amount totaling one hundred dollars or less shall not be determined by the board of claims, except as otherwise provided in this section, but shall be settled by the division. If the division offers to make settlement and such settlement is not accepted by the claimant, the claimant may submit his claim to the board of claims.

(3) Every agent authorized to sell passes and registrations shall account for all passes and registrations delivered to such agent. If any agent is not able to account for any pass or registration, such agent shall be responsible for the maximum amount for which each unaccounted-for pass or registration could have been issued, except as provided in subsections (4) to (8) of this section.

(4) Any agent authorized to sell passes and registrations may make a claim under oath for relief from responsibility for passes and registrations which have been lost, stolen, or destroyed and for which such agent is unable to account, but no claim for relief shall be considered unless the agent making the claim informs the division of such loss, theft, or destruction within thirty days after such loss, theft, or destruction is discovered, said notice to set forth in detail all pertinent information then known to the agent. Upon receipt of any claim for relief, it is the duty of the division to make an investigation of the claim as soon as practicable, and for that purpose the claimant shall make available such records, information, or other pertinent data as may be in his possession or under his control. A written report of such investigation shall be filed with the board of claims.

(5) As soon as practicable after receipt of the investigator's report and in no event later than one hundred twenty days after receipt of notice of a claim for relief, the board of claims shall set a date for the hearing on such claim for relief, and the claimant may appear at the hearing if he so desires. The claimant shall be given not less than ten days' written notice of the

date of the hearing, such notice to be mailed to his last-known address.

(6) The board of claims may give relief to any claimant in the following circumstances and subject to the following limitations:

(a) If the board of claims is satisfied that any passes or registrations were destroyed due to fire, flood, act of God, or any other cause beyond the control of the claimant and that destruction was not due in part to his negligence, then the board of claims may entirely relieve the claimant of the responsibility to account for such passes and registrations or make such lesser adjustment as the board of claims may deem proper.

(b) If the board of claims is satisfied that any passes or registrations were either lost, stolen, or destroyed under circumstances other than those set forth in paragraph (a) of this subsection (6), the board of claims may, in its discretion, make an adjustment of the amount due for any such passes or registrations. The board of claims, in determining what adjustment, if any, shall be allowed for any lost, stolen, or destroyed passes and registrations, may consider the following:

(I) Whether or not, or the extent to which, the loss was due to the negligence or carelessness of the claimant in the handling of passes and registrations, but no adjustment shall be made in the case of gross negligence or gross carelessness upon his part;

(II) Such other evidence as the board of claims may consider pertinent.

(7) The board of claims, in the event that it makes any adjustment upon a claim, may, in its discretion, require the use of such protection against the possibility of lost, stolen, or destroyed passes and registrations as it may deem proper, including, but not limited to, the posting of corporate or personal surety bonds.

(8) It is the legislative intent of subsections (2) to (7) of this section to provide in proper cases for the relief of agents where passes or registrations have been lost, stolen, or destroyed, which relief, however, shall be strictly construed, it being the further intent of such subsections to encourage the proper and careful handling of such documents by pass and registration agents.

(9) The commission may promulgate rules for the cash sale of passes and registrations to pass and registration agents of the division for resale to the public. Only agents of the division in good standing may qualify to purchase and sell under this subsection (9); except that no evidence of financial responsibility shall be required to qualify under this subsection (9). A post or base exchange of the United States government located in Colorado may qualify as an agent for the purpose of this subsection (9). Failure to comply with all applicable rules of the commission and lawful directives of the division regarding pass and registration agents constitutes grounds for the suspension or termination of such an agent, and, upon suspension or termination, all unsold passes and registrations shall be returned immediately to the division for return of cash in the amount paid by the agent for the passes and registrations. The commission, in connection with a program that it may adopt under this subsection (9), shall provide for redemption by the division, at least annually, of any unsold passes and registrations in the amount paid by the agent for such unsold passes and registrations. Subsections (1) to (8) of this section, except the provisions of subsection (1) regarding the designation of pass and registration agents, do not apply to passes and registrations sold under this subsection (9).

(10) The commission may authorize certain employees to sell passes and registrations at the headquarters and regional offices of the division. Such employees are not entitled to a

discount off of the face value of the passes and registrations and are not required to give evidence of financial responsibility. Such employees may make claims under oath for relief from responsibility for passes and registrations or moneys that have been lost, stolen, or destroyed and for which the employees are unable to account in accordance with subsections (4) to (8) of this section.

(11) Any pass or registration agent who fails, upon demand of the division or its authorized representative, to account for passes and registrations or who fails to pay over to the division or its authorized representative moneys received from the sale of passes and registrations:

(a) When the amount in question is less than two hundred dollars, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than two 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;

(b) When the amount in question is two hundred dollars or more, commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S., which punishment shall include a fine in an amount set out in section 18-1.3-401 (1) (a) (III), C.R.S.

33-12-105. Licensing violations. (1) Except as otherwise provided in section 33-12-104, it is unlawful for any person to transfer, sell, or assign any pass or registration issued under articles 10 to 15 of this title to another person. Any person who violates this subsection (1) is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of two hundred dollars.

(2) Any person who makes any false statement or gives any false information in connection with purchasing or selling a pass or registration or who makes any alteration of a pass or registration is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of two hundred dollars, and any such statement, information, or alteration shall render such pass or registration void.

(3) Any person who fails to obtain or make readily available for inspection by a parks and recreation officer or other peace officer an appropriate and valid pass is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of twenty-five dollars.

33-12-106. Park entrance privileges - identified veterans - wounded warriors - search and rescue organizations conducting training activities - legislative declaration - rules. (1) Any resident who displays on the resident's vehicle a Colorado disabled veteran's license plate pursuant to section 42-3-304 (3) (a), C.R.S., shall be allowed free entrance to any state park or recreation area, not to include campgrounds, on any day of the year such park or area is open. For the purpose of this section, display of such license plates shall entitle the disabled veteran and passengers in such veteran's vehicle to enter such park or recreation area free of charge.

(2) Repealed.

(2.3) The commission may promulgate rules to allow free entrance to any state park or

recreation area, not to include campgrounds, yurts, or other amenities and services offered, for veterans on one day each year. The commission may determine by rule which day veterans are allowed free entrance to state parks and recreation areas.

(2.4) (a) The commission shall promulgate a rule to allow veterans, including active duty personnel, free entrance to any state park or recreation area, not to include campgrounds, yurts, or other amenities and services, for the month of August each year. The commission may promulgate a rule setting evidence standards to show a person is a veteran and issue a sticker or other device that identifies a person as a veteran for future entrance. The commission may also charge a fee for issuing the sticker or other device that identifies a person as a veteran, but the fee must be based on the direct and indirect cost of issuing the sticker or other device.

(b) The general assembly shall annually appropriate moneys to the division to implement this subsection (2.4). If the general assembly does not make the appropriation, the commission need not offer free entrance to veterans to state parks or recreational areas until the money is appropriated.

(2.7) (a) (I) The general assembly hereby finds, determines, and declares that:

(A) Service members returning from post-September 11, 2001, overseas contingency operations who have been injured during combat face a challenging period of rehabilitation upon their return to the United States;

(B) Many of these service members are so severely injured that they require medical assistance for many years, or even the rest of their lives, as they reenter mainstream life;

(C) Although the scope of care provided by the United States armed services wounded warrior programs varies with each service member, based on the needs of the individual, these service members may be assigned, upon return to Colorado, to a medical treatment facility such as Evans army hospital at Fort Carson, Colorado;

(D) Wounded warrior programs are direct efforts by the United States armed services to care for service members during their long transition from combat-related injury to civilian life and to provide assistance to those service members in recovery, rehabilitation, and reintegration that is worthy of their service and sacrifice; and

(E) For those wounded warriors who suffer injuries so severe that they will require intense, ongoing care or assistance for many years or the rest of their lives, a significant part of the healing process is enabling and encouraging these service members to experience some of the outdoor recreational activities they enjoyed prior to their service-related injuries.

(II) The general assembly therefore recognizes the need to provide opportunities for Colorado's severely injured "wounded warriors" to enjoy the natural resources of the state as part of their rehabilitative care. Furthermore, offering free entrance to state parks and recreation areas to such recovering service members is a small, but recognizable, acknowledgment of their selfless service and sacrifice.

(b) The commission may promulgate rules to allow free entrance to any state park or recreation area, not to include campgrounds, yurts, or other amenities or services offered, for participants in the United States armed services wounded warrior programs who are residents of, or stationed in, Colorado. Any such rules must also allow for free admission of persons accompanying the wounded warrior program participant in the same vehicle.

(c) As used in this subsection (2.7), "United States armed services wounded warrior

programs" means:

(I) The Army wounded warrior (AW2) program;

(II) The Air Force wounded warrior (AFW2) program;

(III) The Navy safe harbor program;

(IV) The Coast Guard wounded warrior regiment; and

(V) Any successor program administered by a branch of the United States armed services to provide individualized support for service members who have been severely injured in overseas contingency operations undertaken since September 11, 2001.

(3) Pursuant to section 33-10-115, a public or nonprofit search and rescue organization shall be allowed free entrance to any state park or recreation area on any day of the year such park or area is open, subject to availability.

33-12-107. Agreements with special districts to collect special district tolls for access road maintenance furnished by special districts. (Repealed)

ARTICLE 12.5

Arkansas River Recreational Act

33-12.5-101. Short title. This article shall be known and may be cited as the "Arkansas River Recreational Act".

33-12.5-102. Legislative declaration. The general assembly recognizes that the Arkansas river is a major recreation attraction and a vital resource for residents and nonresidents alike and hereby declares that it is the policy of this state to safeguard the recreational quality of the Arkansas river and the adjacent lands by granting the commission the authority to regulate recreational use on the Arkansas river. It is not the intent of the general assembly to in any way interfere with private landowner rights along the river or with the determination, administration, or change of water rights in the drainage of the Arkansas river and its tributaries and the legal utilization thereof.

33-12.5-103. Powers of the commission. (1) The commission has the authority, consistent with section 33-12.5-102, to regulate the manner, type, time, location, and amount of recreational and commercial use on that portion of the Arkansas river that runs from the confluence of the Lake Fork and the East Fork of the Arkansas river to the Pueblo reservoir.

(2) Subject to section 33-12.5-102, the commission also has the authority to enter into

agreements with municipalities, water conservancy districts, and private individuals to effect reservoir operation in order to provide water flows beneficial to recreation and consistent with section 33-12.5-104.

(3) The commission shall, to the maximum extent possible but consistent with section 33-12.5-102, keep the regulation of the recreational uses of the Arkansas river to a minimum.

33-12.5-104. Effect of article - rights of property owners - water rights. (1) Nothing in this article shall be construed as:

(a) Diminishing the rights of owners of property as provided in the constitution and statutes of this state or in the constitution of the United States;

(b) Modifying or amending existing laws, court decrees, or court decisions or affecting future court proceedings or decrees in any manner with respect to the determination, administration, or change of water rights;

(c) Granting the commission any vested water rights or right to apply for or obtain any decree for a water right for recreational purposes;

(d) Prohibiting or in any way regulating the construction, modification, rehabilitation, or operation of reservoirs, diversion structures, or other facilities necessary for the storage, diversion, or conveyance of water in the drainage of the Arkansas river and its tributaries as otherwise permitted by law;

(e) Superseding, abrogating, or impairing rights to divert water and apply water to beneficial uses in accordance with sections 5 and 6 of article XVI of the Colorado constitution, the provisions of articles 80 to 93 of title 37, C.R.S., or Colorado court decisions with respect to the determination and administration of water rights. Nothing in this article shall be construed, enforced, or applied so as to cause or result in material injury to water rights. The question of whether such material injury to water rights exists and the remedy thereof shall be determined by the water court.

(f) Allowing the commission or the division to require minimum stream flows or minimum water levels in any lakes or impoundments.

33-12.5-105. Repeal of article. (Repealed)

ARTICLE 13

Vessels

33-13-101. Legislative declaration. It is the policy of this state to administer the registration and numbering of vessels in accordance with federal laws pertaining thereto and to

promote the safety of persons and property in connection with the use, operation, and equipment of vessels.

33-13-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion including "personal watercraft" as defined in subsection (3.3) of this section.

(2) "Operate" means to navigate or otherwise use a vessel.

(3) "Owner" means a person who claims lawful possession of a vessel by virtue of legal title or an equitable interest which entitles him to such possession.

(3.3) "Personal watercraft" means a motorboat that uses an inboard motor powering a water jet pump as its primary source of motive power and is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than the conventional manner of sitting or standing inside the vessel. "Personal watercraft" includes a motorboat known as a "specialty prop-craft", which is similar in appearance to a personal watercraft but powered by an outboard or motor driven propeller.

(3.7) "Sailboard" means a sail propelled vessel with no freeboard and equipped with a swivel mounted mast, not secured to a hull by guys or stays.

(4) "Sailboat" means any vessel propelled by the effect of wind on a sail, including sailboards. For the purposes of this article, any vessel propelled by both sail and machinery of any sort shall be deemed a motorboat, when being so propelled.

(5) "Vessel" means every description of watercraft used or capable of being used as a means of transportation of persons and property on the water, other than single-chambered air-inflated devices or seaplanes.

(5.5) "Vessel staging area" means any parking lot, boat ramp, or other location that any vessel is transported to or from by a motor vehicle and where such vessel is placed into operation on or in the water. "Vessel staging area" does not include any location to which a vessel is transported primarily for the purpose of service, maintenance, repair, or sale.

(6) "Whitewater" means natural running water with intermittent rapids.

33-13-103. Numbering of vessels required - rules. (1) It is unlawful for any person to operate or use a vessel on the waters of this state or to possess a vessel at a vessel staging area unless the vessel has been numbered and a certificate of the number, referred to in this article as a "registration", has been issued to the vessel by the division. The operator of the vessel shall produce the registration for inspection upon demand of any officer authorized to enforce articles 10 to 15 and 32 of this title. The following are exempt from the requirements of this subsection (1) and from the vessel registration fee as specified pursuant to section 33-10-111 (5):

(a) Any vessel which is neither a motorboat nor a sailboat as defined in section 33-13-102; except that canoes, kayaks, and nonmotorized rafts exempted by this paragraph (a) shall be marked as required by subsection (5) of this section;

(b) Vessels holding a valid marine document issued by the United States;

(c) Vessels which are numbered in accordance with applicable federal law or in accordance with a federally approved numbering system of another state when the registration is valid and the identifying number set forth in the registration is displayed on each side of the bow of such vessel, which vessel is not used within this state during a period of not more than sixty consecutive days;

(d) A vessel from a country other than the United States temporarily using the waters of this state;

(e) A vessel belonging to a class of vessels which has been exempted after the division has found that the numbering of vessels of such class will not materially aid their identification, and, if an agency of the federal government has a numbering system applicable to the class of vessels to which the vessel in question belongs, after the division has further found that the vessel would also be exempt from numbering if it were subject to federal law;

(f) Any vessel defined as a sailboard in section 33-13-102 (3.7) shall be marked as required by subsection (5) of this section.

(2) Every registration issued pursuant to this article shall continue in full force and effect for a period ending December 31 of the year of issuance of the registration unless sooner terminated or discontinued in accordance with the provisions of this article. A registration may be renewed by the owner in the same manner as that provided for obtaining the initial registration. The same number shall be reissued if the application for renewal is received by the division within thirty days before the date of expiration.

(3) The commission shall prescribe by rule a system of numbering that complies with the federal system for numbering vessels.

(4) Any person who violates subsection (1) of this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars.

(5) It is unlawful for any person to operate or use a canoe, kayak, sailboard, or nonmotorized raft which is not required to be registered under subsection (1) of this section on the waters of this state unless it has been marked with the owner's name and current address in a legible, clearly visible, and durable fashion. Any person who violates this subsection (5) is guilty of a petty offense and, upon conviction thereof, shall be punished by a fine of fifteen dollars.

33-13-104. Application for vessel number. (1) The owner of each vessel requiring numbering by this state shall file an application for a number with the division or any representative approved by the division on forms approved and furnished by the division. The application shall be signed by the owner of the vessel and shall be accompanied by a fee as specified pursuant to section 33-10-111 (5); except that those vessels owned and operated by the state or any political subdivision thereof shall be registered without payment of a registration fee. Upon receipt of the application in approved form, the division or its representative shall issue to the applicant a registration stating the number issued to the vessel. The number issued shall be painted on or attached to each side of the bow on the forward half of the vessel or, if there are no such sides, at a corresponding location on both sides of the foredeck of the vessel for which it is issued. The number issued shall read from left to right in block characters of good proportion having a minimum of three inches in height, excluding border or trim, and of a color that

contrasts with the color of the background, and so maintained as to be clearly visible and legible. No other number shall be carried on the bow of the vessel. Any person who fails to display a vessel number as required in this subsection (1) is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of twenty-five dollars.

(2) The registration shall be of pocket size and shall be on board and available at all times for inspection whenever the vessel for which it is issued is in operation in this state. Any person who violates this subsection (2) is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars. If a registration is lost or destroyed, the owner shall, within fifteen days, notify the division. The notification shall be in writing, shall describe the circumstances of the loss or destruction, and shall be accompanied by a fee for a replacement registration as required under section 33-12-101.

(3) When a numbered vessel is lost, destroyed, or abandoned, the registration issued for the vessel shall be surrendered to the division within fifteen days after any such event. When the owner of a numbered vessel changes his or her address from that shown on the registration, the owner shall notify the division within fifteen days of such change and, as a part of such notification, shall furnish the division with his or her new address. The commission may provide in its rules for the surrender of the registration bearing the former address and its replacement with a registration bearing the correct address or for the alteration of an outstanding registration to show the new address of the owner.

(4) All fees collected under this section shall be credited to the parks and outdoor recreation cash fund and shall be used for the administration of this article.

33-13-105. Seizure of vessels by officers. (1) (a) Every parks and recreation officer and other peace officer of this state may seize and hold any vessel if such officer has probable cause to believe that the vessel is not in the lawful possession of the operator or person in charge thereof.

(b) It is the duty of any officer seizing any vessel, on being informed of any such vessel, to immediately notify the appropriate law enforcement agencies and the owner if known. Such notification shall contain a description of such vessel and any other helpful facts that may assist in locating or establishing the ownership thereof or in prosecuting any person for a violation of article 4 of title 18, C.R.S., or other state laws.

(2) "Hull identification number" means any identifying number, serial number, engine number, or other distinguishing number or mark, including letters, if any, placed on a vessel or engine by its manufacturer or by authority of the division or in accordance with the laws of another state or country, excluding the vessel registration number.

(3) (a) Whenever a vessel is seized pursuant to subsection (1) of this section, the law enforcement agency or a governmental entity may commence an action in a court of competent jurisdiction to determine whether said vessel shall be destroyed, sold, converted to the use of the seizing agency, or otherwise disposed of by an order of said court.

(b) (I) Any forfeiture proceeding initiated pursuant to this section shall be conducted in conformance with section 16-13-505, C.R.S.

(II) For purposes of applying section 16-13-505, C.R.S., to a seizure hearing conducted

pursuant to this section, "contraband" includes any vessel seized in accordance with this section.

(4) Nothing in this section shall preclude the return of the seized vessel to the owner by the seizing agency following presentation of satisfactory evidence of ownership and, if determined necessary, requiring the owner to obtain an assignment of a hull identification number for the vessel from the division.

(5) and (6) (Deleted by amendment, L. 96, p. 725, § 1, effective January 1, 1997.)

(7) If the court having jurisdiction orders the vessel sold by the division, the proceeds of the sale shall be forwarded to the treasurer who shall credit such proceeds to the general fund.

33-13-106. Equipment requirements. (1) No person shall operate a personal watercraft unless each person aboard is wearing a personal flotation device of a type approved by the United States Coast Guard that is in a good and serviceable condition.

(2) A person operating a personal watercraft equipped by the original manufacturer with an engine cutoff switch lanyard shall attach such lanyard to his or her person, clothing, or personal flotation device, as appropriate for the specific vessel.

(3) Every vessel, other than a personal watercraft, operated on the waters of this state shall at all times have aboard:

(a) One personal flotation device of a type approved by the commandant of the United States Coast Guard in good and serviceable condition and in a readily accessible place of storage for each person on board; except that sailboard operators may wear a wet suit, as defined by the commission, in lieu of carrying a personal flotation device as required by this paragraph (a);

(b) When in operation during hours of darkness, a light sufficient to make the vessel's presence and location known to any and all other vessels within a reasonable distance;

(c) If not an entirely open vessel and if carrying or using any inflammable or toxic fluid in any enclosure for any purpose, an efficient natural or mechanical ventilation system which shall be capable of removing any resulting gases prior to and during the time such vessel is occupied by any person.

(4) Every vessel operated on the waters of this state shall have such additional equipment that is designed to promote navigational safety and that the commission may find to be necessary or desirable for the safe operation of vessels upon the waters of this state.

(4.5) No person shall operate a vessel that has entered the water unless each child under the age of thirteen who is aboard such vessel is wearing a personal flotation device, unless such child is below deck or in an enclosed cabin. Such flotation device shall be of a type approved by the United States Coast Guard and shall be in good and serviceable condition.

(5) Any person who violates subsection (1), (2), (3), (4), or (4.5) of this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars.

(6) The commission may exempt vessels from subsection (1), (2), (3), (4), or (4.5) of this section under certain conditions or upon certain waters.

33-13-107. Vessel liveries. (1) The owner or operator of a vessel livery shall keep a record of the name and address of each person who hires any vessel that is designed or permitted to be operated as a vessel, the identification number of such vessel, and the departure date and time and the expected date and time of return of such vessel. Such records shall be preserved for at least thirty days after such vessel is to be returned and shall be subject to inspection by the division. Any person who violates this subsection (1) is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of one hundred dollars.

(2) Neither the owner or operator of a vessel livery nor such owner's or operator's agent or employee shall permit any vessel to depart from his or her premises unless such vessel is equipped and registered as required by this article and rules promulgated pursuant to this article. Any person who violates this subsection (2) is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of one hundred dollars.

33-13-107.1. Minimum age of motorboat operators - youth education. (1) No person under sixteen years of age shall operate a motorboat in this state except as provided in this section.

(2) A person fourteen years of age or older who has not reached his or her sixteenth birthday may operate a motorboat only if he or she:

(a) Completes a boating safety course approved by the division of parks and wildlife; and

(b) Has a boating safety certificate issued by the boating safety course provider in his or her possession.

(3) No person shall permit or knowingly authorize a motorboat to be operated by a person under sixteen years of age; except that a person fourteen years of age or older who has not reached his or her sixteenth birthday may be permitted or authorized to operate a motorboat if he or she has met the boating safety and certificate requirements of subsection (2) of this section.

(4) No owner or operator of a vessel livery or an agent or employee of such owner or operator shall lease, hire, or rent a motorboat to or for operation by any person under sixteen years of age; except that a person fourteen years of age or older who has not reached his or her sixteenth birthday may be permitted or authorized to operate a motorboat if he or she has met the boating safety and certificate requirements of subsection (2) of this section.

(5) Any person who violates this section is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of fifty dollars.

(6) It is the intent of the general assembly that no general fund dollars be appropriated for the purpose of implementing the requirements of this section.

33-13-108. Prohibited vessel operations - rules. (1) (a) No person shall operate or give permission for the operation of a vessel:

(I) Which is not equipped as required by this article or rules and regulations promulgated pursuant thereto;

(II) Which emits noise in excess of the permissible level established in standards promulgated by the commission in accordance with article 4 of title 24, C.R.S.;

(III) Above a wakeless speed in areas zoned as wakeless, as defined by commission rule;

(IV) In a manner that violates any rule promulgated by the commission for safe use and operation of vessels.

(a.5) No person shall operate a personal watercraft between one half hour after sunset and one half hour before sunrise.

(b) Any person who violates paragraph (a) or (a.5) of this subsection (1) is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of fifty dollars.

(2) (a) It is unlawful for any person to operate a vessel in a careless or imprudent manner without due regard for zoning, traffic, and other attendant circumstances or as to endanger any person, property, or wildlife. For purposes of this paragraph (a), careless or imprudent vessel operation includes, but is not limited to, the following:

(I) Becoming airborne or completely leaving the water while crossing the wake of another vessel at an unsafe distance from the vessel creating the wake or when visibility around such vessel is obstructed;

(II) Unsafely weaving through vessel traffic;

(III) Operating at such a speed and proximity to another vessel so as to require the operator of either vessel to abruptly swerve or to abruptly cut speed in order to avoid collision.

(b) Any person who violates paragraph (a) of this subsection (2) is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of one hundred dollars.

(3) It is unlawful for any person to operate a vessel in a reckless manner. Any person who violates this subsection (3) is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than two 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.

(4) Repealed.

33-13-108.1. Operating a vessel while under the influence. (1) (a) It is a misdemeanor for any person to operate or be in actual physical control of a vessel in this state while:

(I) Under the influence of alcohol;

(II) The amount of alcohol, as shown by analysis of the person's blood or breath, in the person's blood is 0.08 or more grams of alcohol per one hundred milliliters of blood or 0.08 or more grams of alcohol per two hundred ten liters of breath at the time of the commission of the alleged offense or within two hours after operating a vessel, if the evidence establishes beyond a reasonable doubt that the person did not consume any alcohol between the time of operation and the time of testing;

(III) Under the influence of any controlled substance as defined in section 18-18-102 (5), C.R.S., or any other drug that renders the person incapable of safely operating a vessel;

(IV) Under the influence of any combination of alcohol and any controlled substance as defined in section 18-18-102 (5), C.R.S., or any other drug, when the combination of alcohol and controlled substance or any other drug renders the person incapable of safely operating a vessel.

(b) For the purposes of this subsection (1), "under the influence of any controlled substance or any other drug" shall include the use of glue-sniffing, aerosol inhalation, or the inhalation of any other toxic vapor.

(2) (a) In any prosecution of a violation of paragraph (a) of subsection (1) of this section, the amount of alcohol in the defendant's blood or breath at the time of the commission of the alleged offense or within a reasonable time thereafter, as shown by analysis of the defendant's blood or breath, shall give rise to the following presumption: If there was at that time 0.08 or more grams of alcohol per one hundred milliliters of blood as shown by analysis of the person's blood or 0.08 or more grams of alcohol per two hundred ten liters of breath as shown by analysis of the person's breath, it shall be presumed that the defendant was under the influence of alcohol.

(b) The limitation of this subsection (2) shall not be construed as limiting the introduction, reception, or consideration of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of alcohol.

(3) In any prosecution for a violation of subsection (1) of this section, the defendant shall be entitled to offer direct and circumstantial evidence to show that there is a disparity between what the tests show and other facts so that the trier of fact could infer that the tests were in some way defective or inaccurate. Such evidence may include testimony of nonexpert witnesses relating to the absence of any or all of the common symptoms or signs of intoxication for the purpose of impeachment of the accuracy of the analysis of the person's blood or breath.

(4) (a) A person who operates a vessel or who is in actual physical control of a vessel on the waters of this state shall be deemed to have expressed consent to the provisions of this subsection (4).

(b) Any person who operates or is in actual physical control of a vessel on the waters of this state may be required to submit to a test or tests of breath or blood for the purpose of determining the alcoholic content of the person's blood or breath if arrested for any misdemeanor offense arising out of acts alleged to have been committed while the person was operating a vessel in violation of subsection (1) of this section. If the person requests that the test be a blood test, then the test shall be of the person's blood; but, if the person requests that a specimen of blood not be drawn, then a specimen of the person's breath shall be obtained and tested.

(c) Any person who operates or is in actual physical control of a vessel on the waters of this state may be required to submit to a test or tests of the person's blood, saliva, and urine for the purpose of determining the drug content within the person's system if arrested for any misdemeanor offense arising out of acts alleged to have been committed while the person was operating a vessel in violation of subsection (1) of this section.

(5) Any person who is required to submit to testing or who requests that a specimen of blood, breath, saliva, or urine be taken or drawn shall cooperate with the person authorized to obtain the specimens, including the signing of any release forms required by any person who is authorized to take or withdraw such specimens. If the person refuses to sign any release forms, the refusal shall be considered a refusal to take the tests, if said forms conform to subsection (6) of this section. No peace officer shall physically restrain any person for the purpose of obtaining a specimen of his blood, breath, saliva, or urine for testing.

(6) The arresting officer having probable cause to believe a person has violated this section shall direct the administration of the tests in accordance with rules prescribed by the state

board of health with utmost respect for the constitutional rights, dignity, and health of the person being tested. No person except a physician, a registered nurse, a paramedic as certified in part 2 of article 3.5 of title 25, C.R.S., an emergency medical service provider as defined in part 1 of article 3.5 of title 25, C.R.S., or a person whose normal duties include withdrawing blood samples under the supervision of a physician or registered nurse shall withdraw blood to determine the alcoholic or drug content of the blood for purposes of this section. No civil liability attaches to a person authorized to obtain blood, breath, saliva, or urine specimens or to a hospital in which the specimens are obtained as provided in subsection (4) of this section as a result of the act of obtaining the specimens from any person submitting thereto if the specimens were obtained according to the rules of the state board of health; except that this provision does not relieve the person from liability for negligence in obtaining a specimen sample.

(7) Any person who is dead or unconscious shall be tested to determine the alcoholic content of the person's blood as provided in subsection (4) of this section. In addition to the tests prescribed, the blood of a dead person shall be checked for carbon monoxide content and for the presence of drugs, as prescribed by the department of public health and environment. All information obtained will be made a part of the accident report.

(8) If a person refuses to submit to tests as provided for in subsection (4) of this section and the person subsequently stands trial for a violation of subsection (1) of this section, the refusal to submit to the tests shall be admissible into evidence at the trial, and a person may not claim the privilege against self-incrimination with regard to admission of refusal to submit to any tests.

(9) The fact that any person charged with a violation of subparagraph (II) or (III) of paragraph (a) of subsection (1) of this section is or has been entitled to use the controlled substance or drug under the laws of this state shall not constitute a defense against any person charged with the violation.

(10) No court shall accept a plea of guilty to a non-alcohol-related or non-drug-related boating offense from a person charged with a violation of subsection (1) of this section unless the prosecuting attorney makes a good faith representation that a prima facie case could not be established if the defendant were brought to trial on the original alcohol-related or drug-related offense.

(11) When a peace officer has reasonable grounds to believe that a person is operating a vessel while under the influence of alcohol or that the operator has been involved in a boating accident resulting in injury or death, the peace officer may request the operator to provide a sample of the operator's breath for a preliminary screening test. The test shall be given using a device approved by the executive director of the department of public health and environment as being accurate to within ten percent of the actual reading obtained by the officer upon administering the test. The results of this preliminary screening test may be used for the purpose of deciding whether an arrest should be made and whether to administer a test pursuant to paragraph (b) of subsection (4) of this section but shall not be used in any court action except to prove that a test was properly authorized pursuant to this section. The results of the test shall be made available to the operator or the operator's attorney upon request. The preliminary screening test shall not constitute the test for the purposes of subsection (4) of this section.

(12) (a) Every person who is convicted of a violation of subsection (1) of this section shall be punished by imprisonment in the county jail for not less than five days nor more than one year, and, in addition, the court may impose a fine of not less than two hundred dollars nor more than one thousand dollars. Except as provided in paragraph (c) of this subsection (12), the minimum period of imprisonment provided for the violation shall be mandatory. In addition to any other penalty that is imposed, every person who is convicted of a violation to which this paragraph (a) applies shall perform no more than ninety-six hours of useful public service.

(b) Upon a conviction of a subsequent violation of subsection (1) of this section that occurred within five years of the date of a previous violation of subsection (1) of this section, the offender shall be punished by imprisonment in the county jail for not less than sixty days nor more than one year, and, in addition, the court may impose a fine of not less than five hundred dollars nor more than one thousand five hundred dollars. The minimum period of imprisonment as provided for the violation shall be mandatory, but the court may suspend up to fifty-five days of the period of imprisonment if the offender complies with paragraph (c) of this subsection (12). In addition to any other penalty that is imposed, every person convicted of a violation to which this paragraph (b) applies shall perform not less than sixty hours nor more than one hundred twenty hours of useful public service. The performance of the minimum period of service shall be mandatory, and the court shall have no discretion to suspend the mandatory minimum period of performance of the service.

(c) The sentence of any person subject to paragraph (a) or (b) of this subsection (12) may be suspended to the extent provided for in said paragraphs if the offender receives a presentence alcohol and drug evaluation and, based on that evaluation, if the offender satisfactorily completes an appropriate level I or level II alcohol and drug driving safety education or treatment program and abstains from the use of alcohol for a period of one year from the date of sentencing. The abstinence shall be monitored by the treatment facility by the administration of disulfiram or by any other means that the director of the treatment facility deems appropriate. If, at any time during the one-year period, the offender does not satisfactorily comply with the conditions of the suspension, that sentence shall be reimposed, and the offender shall spend that portion of the sentence that was suspended in the county jail.

(d) In addition to any other penalty provided by law, the court may sentence a defendant who is convicted pursuant to this section to a period of probation for the purposes of treatment not to exceed two years.

(e) For the purposes of this subsection (12), "useful public service" has the meaning set forth in section 42-4-1301.4, C.R.S., and the useful public service program authorized therein shall be utilized for the purposes of this subsection (12). An offender sentenced to a useful public service program shall complete the same within the time established by the court. In addition to any other penalties, fines, fees, or costs prescribed in this section, the court shall assess an amount not to exceed the amount established in section 42-4-1301.4, C.R.S., upon any person required to perform useful public service. The amount shall be used only to pay for the costs authorized in section 42-4-1301.4, C.R.S.

(f) For the purposes of this subsection (12), "alcohol and drug driving safety education or treatment" has the meaning set forth in section 42-4-1301.3, C.R.S., and the alcohol and drug driving safety program and the presentence alcohol and drug evaluations authorized in said

section shall be utilized for the purposes of this subsection (12). The presentence alcohol and drug evaluation shall be conducted on all persons convicted of a violation of subsection (1) of this section; except that this requirement shall not apply to persons who are not residents of Colorado at the time of sentencing. Any defendant sentenced to level I or level II education or treatment programs shall be instructed by the court to meet all financial obligations of the programs. If the financial obligations are not met, the sentencing court shall be notified for the purpose of collection or review and further action on the defendant's sentence. In addition to any other penalties, fines, fees, or costs prescribed in this section, the court shall assess an amount, not to exceed the amount established in section 42-4-1301.3, C.R.S., upon any person convicted of a violation of subsection (1) of this section. The amount shall be used only to pay for the costs authorized in section 42-4-1301.3, C.R.S. The court shall consider the alcohol and drug evaluation prior to sentencing. This paragraph (f) is also applicable to any defendant who receives a diversion in accordance with section 18-1.3-101, C.R.S., or who receives a deferred sentence in accordance with section 18-1.3-102, C.R.S.

(g) Upon a conviction for a first offense for a violation of subsection (1) of this section, in addition to any other penalties, fines, fees, or costs imposed, the court shall order the person to not operate a vessel for a three-month period. Upon a conviction for a subsequent offense for a violation of subsection (1) of this section, in addition to any other penalties, fines, fees, or costs imposed, the court shall order the person to not operate a vessel for a one-year period. For the purposes of this paragraph (g), "conviction" includes a conviction in any court of record or municipal court, a plea of no contest accepted by the court, or the forfeiture of any bail or collateral deposited to secure a defendant's appearance in court or the failure to appear in court by a defendant charged with a violation of subsection (1) of this section who has been issued a summons and complaint to appear pursuant to section 33-15-102 (2).

(h) Upon a plea of guilty or a verdict of guilty by the court or a jury to any offense specified in subsection (1) of this section, the court shall order the defendant to immediately report to the sheriff's department in the county where the defendant was convicted. At that time, the defendant's fingerprints and photographs shall be taken and returned to the court, which fingerprints and photographs shall become a part of the court's official documents and records pertaining to the defendant's conviction and the defendant's identification in association with the conviction. In any trial for a violation of any of the offenses specified in subsection (1) of this section, a duly authenticated copy of the record of former convictions and judgments of any court of record for any of said crimes against the party indicted or informed against shall be prima facie evidence of the convictions and may be used in evidence against the party. Identification photographs and fingerprints that are part of the record of such former convictions and judgments of any court of record or are part of the record at the place of the party's incarceration after sentencing for any of such former convictions and judgments shall be prima facie evidence of the identity of the party and may be used in evidence against the party. Any person who fails to immediately comply with the court's order to report to the sheriff's department, to furnish fingerprints, or to have photographs taken may be held in contempt of court.

(13) (a) No owner or operator of a vessel shall knowingly authorize the vessel to be operated by or come under the actual physical control of any other person if the person is under the influence of alcohol, a controlled substance or any other drug, or any combination of alcohol,

controlled substance, or drug.

(b) Any person who is convicted of a violation of paragraph (a) of this subsection (13) is guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment in the county jail for not more than one year, or by a fine of not less than two hundred dollars nor more than one thousand dollars, or by both fine and imprisonment.

(14) In all actions, suits, and judicial proceedings in any court of this state concerning alcohol-related or drug-related vessel offenses, the court shall take judicial notice of methods of testing a person's alcohol or drug level and of the design and operation of devices, as certified by the department of public health and environment, for testing a person's blood, breath, saliva, or urine to determine the alcohol or drug level. This subsection (14) shall not prevent the necessity of establishing during a trial that the testing devices used were in proper working order and that the testing devices were properly operated. Nothing in this subsection (14) shall preclude a defendant from offering evidence of the accuracy of the testing device.

(15) As used in this section, "convicted" includes a plea of no contest accepted by the court.

(16) (a) Upon conviction of or plea of no contest to a violation of this section, the court shall forward a certified copy of the conviction or plea to the division.

(b) When a peace officer requests a person to submit to tests as required by subsection (4) of this section and the person refuses to submit to the tests, the officer shall forward to the division a verified report of all relevant information, including information that adequately identifies the person and a statement of the officer's probable cause for requesting the person to submit to the tests.

33-13-108.2. Operating a vessel while the privilege to operate is suspended. (1) Any person who operates a vessel in this state at a time when a court-ordered suspension of the operator's vessel operating privilege is in effect for a conviction of an alcohol- or drug-related operating offense pursuant to section 33-13-108.1 (1) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail for not less than three days nor more than one hundred eighty days and, in the discretion of the court, by a fine of not less than three hundred dollars nor more than one thousand dollars. Upon a subsequent conviction, the person shall be punished by imprisonment in the county jail for not less than ninety days nor more than one year and, in the discretion of the court, by a fine of not less than five hundred dollars nor more than three thousand dollars. The minimum jail sentence imposed by this subsection (1) shall be mandatory, and the court shall not grant probation or a suspended sentence. However, in a case where the defendant is convicted and it is established that it was necessary to operate the vessel in violation of this subsection (1) because of an emergency, the mandatory jail sentence shall not apply, and, for a conviction, the court may impose a sentence of imprisonment in the county jail for a period of not more than one year and, in the discretion of the court, a fine of not more than one thousand dollars, and, for a subsequent conviction, the court may impose a sentence of imprisonment in the county jail for a period of not more than two years and, in the discretion of the court, a fine of not more than three thousand dollars.

(2) In any trial in which a person is charged with a violation of subsection (1) of this

section, a duly authenticated copy of the record of former convictions and judgments of any court of record against the party indicted or informed against for an alcohol- or drug-related vessel operating offense pursuant to section 33-13-108.1 shall be prima facie evidence of the convictions and judgments and may be used in evidence against the party. Identification photographs and fingerprints that are part of the record of such former convictions and judgments and the party's incarceration after sentencing for any of such former convictions and judgments shall be prima facie evidence of the identity of the party and may be used in evidence against the party.

(3) Upon a subsequent conviction under subsection (1) of this section within five years after the first conviction, in addition to the penalty prescribed in said subsection (1), the court shall order the defendant to not operate a vessel in this state for a period of two years after the subsequent conviction.

(4) Upon conviction of or a plea of no contest to a violation of this section, the court shall forward a certified copy of the conviction or plea to the division.

33-13-108.3. Records to be kept by the division. The division shall file all abstracts of court records of convictions of violations of sections 33-13-108.1 and 33-13-108.2 and shall maintain a suitable alphabetical index for such file.

33-13-109. Collisions, accidents, and casualties - rules. (1) The operator of a vessel involved in a collision, accident, or other casualty shall, so far as he can do so without serious danger to his own vessel, crew, and passengers, if any, render to other persons affected by the collision, accident, or casualty such assistance as may be practicable and necessary in order to save them from or to minimize any danger caused by the collision, accident, or other casualty, and he shall give his name and address and the identification of his vessel, including the name and address of the owner if different from that of the operator, in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.

(2) The commission shall adopt rules concerning notification and reporting procedures to be followed in the case of a collision, accident, or other casualty involving a vessel or its equipment. The regulations must be consistent with applicable federal requirements.

(3) The owner or operator of a vessel involved in a collision, accident, or other casualty shall report the collision, accident, or casualty as provided in the rules of the commission.

(4) and (5) (Deleted by amendment, L. 2003, p. 1947, § 22, effective May 22, 2003.)

(6) Any person who violates subsection (1) or (3) of this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of seventy-five dollars.

33-13-110. Water skis, aquaplanes, surfboards, inner tubes, and similar devices - rules. (1) (a) No person shall operate or manipulate any vessel, towrope, or other device by which the direction, speed, or location of water skis, an aquaplane, a surfboard, an inner tube, or any similar device may be affected or controlled in such a way as to cause such device or any

person thereon to collide with or strike against any object or person.

(b) No person shall operate, manipulate, or ride water skis, an aquaplane, a surfboard, an inner tube, or any similar device towed behind a vessel in a careless or imprudent manner without due regard for other traffic and all other attendant circumstances on the water.

(c) Any person who violates this subsection (1) is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of one hundred dollars.

(2) (a) Any person on water skis, an aquaplane, a surfboard, an inner tube, or any similar device shall wear a personal flotation device.

(b) The commission shall promulgate such rules as are necessary or desirable for the safe use of water skis, aquaplanes, surfboards, inner tubes, and other similar devices.

(c) In addition, the commission may promulgate rules to prohibit recreational activities pertaining to the use of all single-chambered air-inflated devices, including inner tubes and air mattresses, on rivers and streams when water conditions are considered dangerous to such activities and when bodily injury may result to participants of those activities.

(d) Any person who violates this subsection (2) is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars.

(3) (a) No person shall operate, manipulate, or ride water skis, an aquaplane, a surfboard, an inner tube, or any similar device while under the influence of alcohol, a controlled substance as defined in section 18-18-102 (5), C.R.S., or any other drug, or any combination thereof, which renders the person incapable of the safe operation of such device.

(b) Any person who violates this subsection (3) is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than two 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.

33-13-111. Authority to close waters - rules. (1) (a) The commission shall promulgate rules to prohibit the operation of vessels on any waters of the state and ordering the removal of vessels from any waters of the state when such operation constitutes or may constitute a hazard to human life or safety.

(b) For purposes of this subsection (1), "vessels" shall not include whitewater canoes and kayaks except in the case of:

(I) A state of disaster emergency pursuant to section 24-33.5-704 or 24-33.5-709, C.R.S.;

(II) Disaster relief efforts that are underway and that may include debris removal;

(III) An accident or other emergency that occurs in or immediately adjacent to the water body;

(IV) Rescue efforts for victims that are actively underway and such efforts would be hindered by additional waterway traffic; or

(V) Active construction or transportation projects authorized under state or federal law.

(2) Any parks and recreation officer or other peace officer as defined in section 33-10-102 has the authority to enforce this section under the rules promulgated by the commission.

(3) Any person who fails to obey an order issued under this section is guilty of a class 2

petty offense and, upon conviction, shall be punished by a fine of one hundred dollars.

33-13-112. Enforcement - applicability. (1) Every parks and recreation officer and other peace officer of this state has the authority to enforce the provisions of this article and, in the exercise thereof, has the authority to stop and board any vessel; except that the officer shall have reasonable suspicion prior to boarding any vessel.

(2) The provisions of this article and the rules and regulations promulgated pursuant thereto shall apply to all waters of this state; except that such provisions shall not apply to standing bodies of water on private property which are used for private, noncommercial purposes.

33-13-113. Municipal corporations or organizations - powers. Nothing in this article shall be construed to prevent municipal corporations or quasi-municipal corporations, including, but not limited to, metropolitan recreation districts, from policing lakes or bodies of water located within all or part of the territorial boundaries of any such entities. Any person designated by such entities to engage in policing work upon said bodies of water may be commissioned by the division to enforce the provisions of this article as an authorized representative of the division. In addition, said entities shall also be empowered to charge and collect reasonable permit fees to defer the expense of such policing operations without the obligation of remitting such fees to the division, but such fees shall be in addition to those otherwise provided for in this article. Such entities are empowered to adopt and enforce reasonable rules and regulations governing the use of vessels on the bodies of water patrolled under their supervision if such rules and regulations do not conflict with the provisions of this article.

33-13-113.5. Report required - when. The division shall report immediately to the president of the senate and the speaker of the house of representatives if funds received from the federal government for recreational boating safety under the state boating safety programs, 46 U.S.C. sec. 13101 et seq., as amended, or any successor program, cease or are expected to cease for any reason.

33-13-114. Copies of laws and regulations furnished. (Repealed)

33-13-115. Termination of functions. (Repealed)

33-13-116. Repeal of sections. Sections 33-13-103, 33-13-104, 33-13-105, and 33-13-107 are repealed, effective September 1, 2016. Prior to the repeal, the function of registration and regulation of vessels shall be reviewed as provided for in section 24-34-104, C.R.S.

ARTICLE 14

Snowmobiles

33-14-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Administrative costs" includes, but is not limited to, printing, postage, mailing, and personnel related to registration processing.

(2) "Dealer" means a person engaged in the business of selling snowmobiles at wholesale or retail in this state.

(3) "Direct services" includes, but is not limited to, the activities and expenses associated with law enforcement, safety certification, capital equipment, rescue and first aid equipment, snowmobile facilities, and division and contract services related to clearing parking lots and providing trail maintenance.

(4) "Manufacturer" means a person engaged in the business of manufacturing snowmobiles in this state.

(5) "Operate" means to ride in or on and control the operation of a snowmobile.

(6) "Operator" means every person who operates or is in actual physical control of a snowmobile.

(7) "Owner" means a person, other than a lienholder, having title to a snowmobile and entitled to the use or possession thereof.

(8) "Person" means any individual, association, partnership, or public or private corporation, any municipal corporation, county, city, city and county, or other political subdivision of the state, or any other public or private organization of any character.

(8.5) "Possession" means physical custody of a snowmobile by any owner of a snowmobile or by any owner of a motor vehicle or trailer on or in which a snowmobile is placed for the purpose of transport.

(9) "Renter" means a person primarily engaged in the business of renting snowmobiles.

(10) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel.

(11) "Snowmobile" means a self-propelled vehicle primarily designed or altered for travel on snow or ice when supported in part by skis, belts, or cleats. "Snowmobile" does not include machinery used strictly for the grooming of snowmobile trails or ski slopes.

(11.5) "Staging area" means any parking lot, trailhead, or other location to or from which any snowmobile is transported by truck, trailer, or other motor vehicle where it is placed into operation or removed from operation. "Staging area" does not include any location to which a snowmobile is transported primarily for the purpose of service, maintenance, repair, storage, or sale.

(12) "Street", "road", "freeway", or "highway" means the entire right-of-way between

boundary lines of any of such public ways when any part thereof is open to the use of the public as a matter of right for the purpose of motor vehicle travel.

33-14-102. Snowmobile registration - fees - applications - requirements - penalties - exemptions. (1) (a) Except as provided in subsection (6) of this section, no person shall operate, nor have in his possession at any staging area, any snowmobile within the state unless such snowmobile has been registered and numbered in accordance with the provisions of this article. The division is authorized to assign identification numbers and register snowmobiles.

(b) The division shall employ snowmobile agents, including dealers and licensing agents serving as such for the division, for snowmobile registration pursuant to section 33-12-104. The agents shall take the registration application and issue a temporary registration and shall forward the application to the division, which shall issue the registration. Snowmobile dealers employed as licensing agents for snowmobile registration are authorized to issue annual registrations and shall retain a commission of up to one dollar, as authorized by the division, for each registration issued.

(2) (a) Every dealer shall require a purchaser of a new or used snowmobile sold at retail from the dealer's inventory to complete a registration application and pay the registration fee before the snowmobile leaves the dealer's premises, except for those snowmobiles purchased for use exclusively outside of this state. Any dealer who does not comply with this paragraph (a) is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of one hundred dollars.

(b) (Deleted by amendment, L. 95, p. 339, § 5, effective July 1, 1995.)

(c) Each snowmobile owned by a dealer for rental purposes shall be registered pursuant to this section upon payment of an owner's fee as provided in paragraph (a) of subsection (3) of this section.

(3) (a) For all or any part of a year beginning October 1 and ending September 30, the original and each renewal registration fee by an owner shall be as specified pursuant to section 33-10-111 (5).

(b) The fee for replacement of a lost, mutilated, or destroyed registration or validation decal shall be as specified in section 33-12-101.

(4) (a) For each year beginning October 1 and ending September 30 or portion thereof for which such registration is made, the registration fee for all snowmobiles owned by a dealer or manufacturer which are operated for demonstration or testing purposes only shall be as specified pursuant to section 33-10-111 (5).

(b) Dealer and manufacturer registrations are not transferable and shall be distinguished by appropriate means by the division from the registration required for owners other than dealers and manufacturers.

(5) A registration certificate shall be issued without the payment of a fee for snowmobiles owned by the state of Colorado or a political subdivision thereof upon application therefor.

(6) No registration under this section is required for the following snowmobiles:

(a) Snowmobiles owned by any agency of the United States, another state, or a political

subdivision of either, when such ownership is clearly displayed on the machine;

(b) Snowmobiles owned by a resident of another state or country if such snowmobiles are covered by a valid license of such other state or country and such snowmobiles have not been within this state for more than thirty consecutive days;

(c) Snowmobiles used strictly on private property for private, noncommercial purposes;

(d) Snowmobiles used only in sanctioned snowmobile races, including any racing snowmobile brought into the state which is exempt from registration in the state where the owner of said snowmobile resides.

(7) (Deleted by amendment, L. 95, p. 339, § 5, effective July 1, 1995.)

(8) All registrations shall expire at the end of the year for which issued. Application for renewal of registration for the succeeding year shall be made at such time and in such manner as the division shall prescribe.

(9) Any person who operates a snowmobile in violation of this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars.

33-14-103. Proof of ownership for registration purposes. (1) The division shall require proof of ownership for snowmobiles purchased on or after July 1, 1976, prior to the registration of a snowmobile under this article, but such proof shall not be dependent upon any certificate of title, and no such certificate shall be issued by the division.

(2) The division shall keep a record of the manufacturer's number of all snowmobiles registered pursuant to this article and shall provide the department of revenue with a copy of said record monthly. The department of revenue shall maintain a computerized list of such record in order to aid in the recovery of stolen snowmobiles.

33-14-104. Issuance of registration. (1) (a) Upon receipt of a sufficient application for registration of a snowmobile, as required by section 33-14-102, the division shall enter upon its records the registration of such vehicle under the distinctive number assigned to it pursuant to this section.

(b) A number assigned to a snowmobile at the time of its original registration shall remain with the snowmobile until the machine is destroyed, abandoned, or permanently removed from the state or until such registration number is changed or terminated by the division.

(2) The division shall, upon assignment of such number, issue and deliver to the owner a registration in such form as the division shall prescribe. A registration shall not be valid unless it is signed by the person who signed the application for registration. In the event of the loss, mutilation, or destruction of any registration, the owner of the registered snowmobile may file such statement and proof of such facts as the division shall require for the issuance of a replacement registration.

(3) (a) At the time of the original registration and at the time of each annual renewal thereof, the division shall issue to said registrant a validation decal indicating the distinctive number assigned to such vehicle as provided in subsection (1) of this section and the validity of

the current registration and the expiration date thereof, which validation decal shall be affixed to the snowmobile in such manner as the division may prescribe.

(b) Notwithstanding the fact that a snowmobile has been assigned an identifying number, it shall not be considered as validly registered within the meaning of this section unless a validation decal and current registration have been issued.

(4) In the event that a snowmobile sought to be registered or reregistered does not comply with the provisions respecting equipment established by the regulations of the division, the division may deny the issuance of a validation decal and current registration.

(5) The registration number assigned to a snowmobile shall be displayed on the vehicle at all times in such manner as the division may, by regulation, prescribe. No number other than the number assigned to a snowmobile or the identification number of the registration in another state shall be painted, attached, or otherwise displayed on either side of the cowling; except that racing numbers on a snowmobile being operated in a prearranged organized special event may be temporarily displayed for the duration of the race.

(6) Every person, while operating a snowmobile in this state which is required to be registered under this article, shall have in his possession or carry in the snowmobile the registration therefor and shall, upon demand of any peace officer authorized to enforce this article, produce for inspection the registration for such snowmobile and furnish to such officer any information necessary for the identification of such snowmobile and its owner.

(7) It is the duty of every owner holding a registration to notify the division, in writing, of any change of residence of such person within fifteen days after such change occurs and to inscribe on the registration, in the place provided, a record of such change of residence.

(8) (a) Any person who violates subsection (5) of this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of twenty-five dollars.

(b) Any person who violates subsection (6) of this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars.

33-14-105. Transfer or other termination of ownership. (1) When the use of a snowmobile for which a registration has already been issued is permanently discontinued, the old registration shall be properly signed and returned to the division within fifteen days after discontinuance.

(2) (a) If there is a change of ownership of a snowmobile for which a registration has been issued, the new owner shall apply for a new registration from a dealer employed as a licensing agent or from the division. Such application shall set forth the original number issued and shall be accompanied by the old registration properly signed by the previous owner and by the required fee for registration as specified pursuant to section 33-10-111 (5).

(b) In the event that such snowmobile was purchased through a bona fide dealer, said application must be accompanied by a dealer's form, as prescribed by the division, numbered, completed, and signed by the dealer or his agent and by the new owner.

(3) It is the duty of every owner of a snowmobile registered pursuant to the provisions of this article to notify the division, in writing, of the destruction, theft, or permanent removal of such snowmobile from the state within fifteen days thereafter, and, in the event of destruction or

theft, he shall surrender the registration with such notice.

33-14-106. Snowmobile recreation fund - creation - use of moneys. Except as provided in section 33-15-103 (1) when enforcement is by a wildlife officer, all fees from the registration of snowmobiles and one-half of all moneys collected for fines under this article, and all interest earned on such moneys, shall be credited to the snowmobile recreation fund, hereby created, and shall be used for the administration of this article and for the establishment and maintenance of snowmobile trails, vehicle parking areas, and facilities. However, any moneys collected in excess of five dollars per original or renewal registration shall be used exclusively for direct services and not administrative costs. The remaining one-half of all fines collected shall be credited to the state general fund.

33-14-107. Rules. (1) The commission shall adopt rules, in the manner provided by article 4 of title 24, C.R.S., for the following purposes:

(a) Registration of snowmobiles and display of registration numbers;

(b) Formulation, in cooperation with appropriate federal agencies, of regulations for uniform maps and signs for use by the state, counties, cities, city and counties, and towns to control, direct, or regulate the operation and use of snowmobiles;

(c) Formulation of other regulations concerning the use of snowmobiles, but not in any way inconsistent with the provisions of this article.

33-14-108. Training courses. (1) The division shall establish snowmobile information, safety, education, and training programs, including, but not limited to, the training of snowmobile operators, and shall issue snowmobile safety certificates and insignia to snowmobile operators who successfully complete the snowmobile safety education and training course.

(2) The division shall cooperate with private organizations and associations, private and public corporations, and local governmental units in furtherance of the programs established under this section.

33-14-109. Restrictions on young operators. (1) No person under the age of ten years may operate a snowmobile, except upon lands owned or leased by his parent or guardian, unless he is accompanied by or under the immediate supervision of a person sixteen years of age or over or by a person over fourteen years of age who holds a snowmobile safety certificate issued by the division for the successful completion of a snowmobile safety education and training course conducted by the division.

(2) Except when accompanied or supervised in the manner provided in subsection (1) of this section, no person ten years of age or over who has not reached his sixteenth birthday shall operate a snowmobile in this state, except upon lands of his parent or guardian, unless he has received a snowmobile safety certificate for the successful completion of a snowmobile safety

education and training course conducted by the division.

(3) Any person who violates this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars.

33-14-110. Snowmobile operation on roadway of streets and highways. (1) A snowmobile may be operated on the roadway of a street or highway in this state only as provided in this section.

(2) No snowmobile may be operated on the roadway of an interstate highway or freeway except during emergency conditions declared by the proper state authority.

(3) A snowmobile may be operated on other streets and highways under the following restrictions:

(a) To cross a street or highway in the manner provided in section 33-14-112;

(b) To traverse a bridge or culvert on such street or highway;

(c) During special snowmobile events lawfully conducted pursuant to the authority granted to local subdivisions in this article;

(d) During emergency conditions declared by proper state authority;

(e) On the roadway of streets and highways which are not maintained for winter motor vehicle traffic;

(f) When local subdivisions have authorized by ordinance or resolution the establishment of snowmobile routes to permit the operation of snowmobiles on city streets or county roads. No street or road which is part of the state highway system may be so designated.

(g) When crossing railroad tracks.

33-14-111. Snowmobile operation on right-of-way of streets, roads, or highways. (1) Except as provided in section 33-14-110 (2), no snowmobile shall be operated on the right-of-way of any interstate highway or freeway.

(2) (a) A snowmobile may be operated on the right-of-way of other roads, streets, and highways as far as practicable from the roadway thereof.

(b) When operating on the right-of-way of a road, street, or highway as authorized by this section during hours of darkness, a snowmobile shall be operated only in conformity with the flow of traffic on the nearest lane of the adjacent roadway.

(3) Any person who violates this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars.

33-14-112. Crossing roads, highways, and railroad tracks. (1) The crossing of a road or highway by a snowmobile operator, when not prohibited by this article, shall be made only in accordance with the following provisions:

(a) The crossing shall be made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.

(b) The snowmobile shall be brought to a complete stop before crossing the shoulder or, if none, the roadway, before proceeding.

(c) The operator shall yield the right-of-way to all motor vehicle traffic on such road or highway which constitutes an immediate hazard to such crossing.

(d) The crossing of a divided highway, when permitted under this article, shall be made only at an intersection of such highway with another road or highway.

(2) No snowmobile may be driven upon the right-of-way of any operating railroad, except for the crossing of the tracks at their intersection with a road or highway.

(3) Any person who violates this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars.

33-14-113. Operation of snowmobiles on private property. No snowmobile shall be operated on private property other than that owned or leased by the operator or except when prior permission has been obtained from the owner, lessee, or agent of the owner or lessee. Any person who violates this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of one hundred dollars.

33-14-114. Required equipment - snowmobiles. (1) No snowmobile shall be operated upon a public street or highway unless it is equipped with the following:

(a) While being operated between the hours of sunset and sunrise, at least one lighted head lamp and one lighted tail lamp, each of a minimum candlepower as prescribed by regulation of the division;

(b) Brakes and a muffler which conform to the standards prescribed by regulation of the division, which shall be applicable in all cases, except for snowmobiles being operated in organized races or similar competitive events held on private lands with the permission of the owner, lessee, or custodian of the land, on public lands and waters under the jurisdiction of the division with its permission, or on other public lands with the consent of the public agency owning the land.

(2) No person shall sell or offer for sale in this state any snowmobile that is not equipped pursuant to the provisions of this section.

(3) Any person who violates this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars.

33-14-115. Notice of accident. (1) The operator of a snowmobile involved in an accident resulting in property damage of fifteen hundred dollars or more or injuries resulting in hospitalization or death, or some person acting for the operator, or the owner of the snowmobile having knowledge of the accident shall immediately, by the quickest available means of communication, notify an officer of the Colorado state patrol, the sheriff's office of the county wherein the accident occurred, or the office of the police department of the municipality wherein the accident occurred.

(2) Any law enforcement agency receiving a report of accident under this section shall forward a copy thereof to the division which shall compile statistics annually based upon such reports.

(3) Within forty-eight hours after an accident involving a snowmobile, the accident shall be reported to the Denver office of the division. The report shall be made on forms furnished by the division and shall be made by the owner of the vehicle or someone acting for him.

(4) Any person who violates subsection (1) or (3) of this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of seventy-five dollars.

33-14-116. Other operating restrictions. (1) No person shall operate a snowmobile in a careless or imprudent manner without due regard for width, grade, corners, curves, or traffic of trails, the requirements of section 33-14-110 (3), and all other attendant circumstances.

(2) No person shall operate a snowmobile in such a manner as to indicate either a wanton or a willful disregard for the safety of persons or property.

(3) No person shall operate a snowmobile while under the influence of alcohol, a controlled substance, as defined in section 18-18-102 (5), C.R.S., or any other drug, or any combination thereof, which renders the person incapable of the safe operation of a snowmobile.

(4) No owner shall permit such snowmobile, while under his control, to be operated in violation of the provisions of this article.

(5) Any person who violates subsection (1) of this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of one hundred dollars.

(6) Any person who violates subsection (2) or (3) of this section is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than two 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.

(7) Any person who violates subsection (4) of this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars.

33-14-117. Hunting, carrying weapons on snowmobiles - prohibitions. (1) It is unlawful for any person to:

(a) Hunt any wildlife from a snowmobile;

(b) Operate or ride on any snowmobile with any firearm in his or her possession, unless such firearm is unloaded and enclosed in a carrying case or inserted in a scabbard, or with any bow unless it is unstrung or cased, but this paragraph (b) does not apply to any person to whom the division has issued a permit for the control of predators such as coyotes, foxes, bobcats, and the like;

(c) Pursue, drive, or otherwise intentionally disturb or harass any wildlife by use of a snowmobile, but this paragraph (c) shall not prevent any person from using a snowmobile to protect his crops and other property.

(2) Permits to use snowmobiles for the control of predators such as coyotes, foxes,

bobcats, and the like may be issued by the division or its district wildlife managers at no charge to persons applying therefor whose purpose is to protect livestock and other wildlife.

(3) Any person who violates subsection (1) of this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine as follows:

(a) For a violation of paragraph (a) of subsection (1) of this section, two hundred dollars;

(b) For a violation of paragraph (b) of subsection (1) of this section, fifty dollars; and

(c) For a violation of paragraph (c) of subsection (1) of this section, two hundred dollars.

33-14-118. Regulation by political subdivisions. (1) Any county, city and county, city, or town acting by its governing body may regulate the operation of snowmobiles on public lands, waters, and property under its jurisdiction and on streets and highways within its boundaries by resolution or ordinance of the governing body and by giving appropriate notice thereof if such regulation is not inconsistent with the provisions of this article and the rules and regulations promulgated pursuant thereto.

(2) No such political subdivision may adopt an ordinance which imposes a fee for the use of public land or water under the jurisdiction of any agency of the state or for the use of any access thereto owned by the state, county, city and county, city, or town; nor shall it require a snowmobile to be licensed or registered in such political subdivision.

33-14-119. Enforcement - federal cooperation. (1) Every parks and recreation officer, every peace officer of this state and its political subdivisions, and every person commissioned by the division shall have the authority to enforce the provisions of this article.

(2) The division, with the advice and consent of the commission, is authorized to enter into cooperative agreements with federal land management agencies for the purpose of regulating snowmobile use on federal lands.

33-14-120. Repeal of sections. (Repealed)

ARTICLE 14.5

Off-highway Vehicles

33-14.5-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Dealer" means a person engaged in the business of selling off-highway vehicles at wholesale or retail in this state.

(2) "Direct services" includes, but is not limited to, the activities and expenses associated with law enforcement, capital equipment, rescue and first aid equipment, off-highway vehicle facilities, and division and contract services related to clearing parking lots and providing trail maintenance.

(3) "Off-highway vehicle" means any self-propelled vehicle which is designed to travel on wheels or tracks in contact with the ground, which is designed primarily for use off of the public highways, and which is generally and commonly used to transport persons for recreational purposes. "Off-highway vehicle" does not include the following:

(a) Vehicles designed and used primarily for travel on, over, or in the water;

(b) Snowmobiles;

(c) Military vehicles;

(d) Golf carts;

(e) Vehicles designed and used to carry individuals with disabilities;

(f) Vehicles designed and used specifically for agricultural, logging, or mining purposes; or

(g) Vehicles registered pursuant to article 3 of title 42, C.R.S.

(4) "Off-highway vehicle route" means any road, trail, or way owned or managed by the state or any agency or political subdivision thereof or the United States for off-highway vehicle travel.

(5) "Owner" means any person, other than a lienholder, having a property interest in an off-highway vehicle and entitled to the use and possession thereof.

(6) "Possession" means physical custody of an off-highway vehicle by any person or by any owner of a motor vehicle or trailer on or in which an off-highway vehicle is placed for the purpose of transport.

(7) "Staging area" means any parking lot, trail head, or other location to or from which any off-highway vehicle is transported by truck, trailer, or other motor vehicle so that it may be placed into operation or removed from operation. "Staging area" does not include any location to which an off-highway vehicle is transported primarily for the purpose of service, maintenance, repair, storage, or sale.

33-14.5-102. Off-highway vehicle registration - nonresident-owned or -operated off-highway vehicle permits - fees - applications - requirements - exemptions. (1) (a) Except as provided in subsection (6) of this section, and except as provided for nonresident-owned and -operated off-highway vehicles in subsection (9) of this section, no person shall operate, nor have in his or her possession at any staging area, any off-highway vehicle within the state unless such off-highway vehicle has been registered and numbered in accordance with the provisions of this article. The division is authorized to assign identification numbers and register off-highway vehicles.

(b) The division shall employ off-highway vehicle agents, including dealers and licensing agents serving as such for the division, for off-highway vehicle registration pursuant to section 33-12-104. Upon receiving a registration application, an agent shall collect the fee specified pursuant to section 33-10-111 (5) and issue a temporary registration and shall forward the

application to the division, which shall issue the registration. An agent may retain a commission of not in excess of one dollar, as authorized by the division, for each registration issued. Any dealer is authorized to issue a temporary registration when a person purchases an off-highway vehicle from such dealer.

(2) (a) Every dealer shall require a purchaser of an off-highway vehicle to complete a registration application and pay the registration fee before the vehicle leaves the dealer's premises, except for those off-highway vehicles purchased for use exclusively outside of this state.

(b) Each off-highway vehicle owned by a lessor for rental purposes shall be registered pursuant to this article upon the payment of a registration fee, as provided in paragraph (a) of subsection (3) of this section.

(3) (a) For each year, or portion thereof, beginning April 1 and ending the following March 31, the original and each renewal registration fee by an owner shall be the fee specified pursuant to section 33-10-111 (5).

(b) The fee for the replacement of a lost, mutilated, or destroyed registration certificate shall be the fee specified in section 33-12-101.

(4) (a) For each year, or portion thereof, beginning April 1 and ending the following March 31, for which such registration is made, the registration fee for all off-highway vehicles owned by a dealer or manufacturer and operated solely for demonstration or testing purposes shall be a fee specified pursuant to section 33-10-111 (5).

(b) Dealer and manufacturer registrations are not transferable and shall be distinguished from the registration required for owners.

(5) A registration certificate shall be issued without the payment of a fee for any off-highway vehicle owned by the state of Colorado or a political subdivision thereof upon application therefor.

(6) No registration under this article is required for any:

(a) Off-highway vehicle owned by any agency of the United States or another state or a political subdivision thereof when such ownership is clearly displayed on such vehicle;

(b) Off-highway vehicle owned by a resident of another state or country if such off-highway vehicle is covered by a valid license or registration of such other state or country and such off-highway vehicle has not been within this state for more than thirty consecutive days;

(c) Off-highway vehicle used strictly for agricultural purposes;

(d) Off-highway vehicle used strictly on private property;

(e) Off-highway vehicle operated in an organized competitive or noncompetitive event on publicly or privately owned or leased land; except that this exemption shall not apply unless the agency exercising jurisdiction over such land specifically authorizes the organized competitive or noncompetitive event;

(f) Off-highway vehicle used by a dealer or manufacturer, or an authorized designee thereof, for off-highway vehicle operator education or safety programs.

(7) Any person who operates an off-highway vehicle in violation of this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars.

(8) Any dealer who does not comply with paragraph (a) of subsection (2) of this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of one hundred dollars.

(9) (a) Notwithstanding the provisions of subsections (1) to (8) of this section, on and after April 1, 2000, no person shall operate, nor have in his or her possession at any staging area, any nonresident-owned or -operated off-highway vehicle within the state of Colorado unless such off-highway vehicle is covered by a valid license or registration of another state or country and such nonresident-owned or -operated off-highway vehicle has not been within this state for more than thirty consecutive days, or such nonresident-owned or -operated off-highway vehicle has been issued a permit pursuant to this subsection (9).

(b) The division is hereby authorized to issue permits to nonresident-owned or -operated off-highway vehicles.

(c) (I) Nonresident off-highway vehicle permits shall be sold by the agents designated pursuant to section 33-12-104, and the fee for said permits shall be the fee provided pursuant to section 33-10-111 (5).

(II) Nonresident off-highway vehicle permits shall be valid for one year or until the following March 31, whichever comes first.

(III) The fee for the replacement of a lost, mutilated, or destroyed nonresident off-highway vehicle permit shall be the fee specified in section 33-12-101 for replacement of passes and registrations.

(d) Nonresident off-highway vehicle permits shall be displayed as required by the division.

(e) The following nonresident off-highway vehicles shall be exempt from the requirements of this subsection (9):

(I) Vehicles owned by the United States or another state or political subdivision thereof if such ownership is clearly displayed on such vehicles;

(II) Vehicles operated in an organized competitive or noncompetitive event on publicly or privately owned or leased land; except that this exemption shall not apply unless the agency exercising jurisdiction over such land specifically authorizes the organized competitive or noncompetitive event;

(III) Vehicles used strictly on private property.

(f) Any person who violates the provisions of this subsection (9) is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of thirty-five dollars.

33-14.5-103. Proof of ownership for registration purposes. (1) The division shall require proof of ownership for an off-highway vehicle prior to the initial registration required under this article, but the division shall not issue a certificate of title for the vehicle.

(2) The division shall keep a record of the manufacturer's numbers of all off-highway vehicles registered pursuant to this article and shall provide the department of revenue with a copy of said record monthly. The department of revenue shall maintain a computerized list of such record in order to aid in the recovery of stolen off-highway vehicles.

33-14.5-104. Issuance of registration. (1) (a) Upon the receipt of a sufficient application for registration of an off-highway vehicle, as required by section 33-14.5-102, the division shall assign a distinctive number to the vehicle and shall enter upon its records the registration of such off-highway vehicle under the distinctive number assigned to it pursuant to this section.

(b) A number assigned to an off-highway vehicle at the time of its original registration shall remain with the off-highway vehicle until such off-highway vehicle is destroyed, abandoned, or permanently removed from the state or until such registration number is changed or terminated by the division.

(2) The division shall, upon assignment of such number, issue and deliver to the owner a registration in such form as the division shall prescribe. In the event of the loss, mutilation, or destruction of any registration, the owner of the registered off-highway vehicle shall file a statement containing such facts as the division shall require for the issuance of a replacement registration, together with the fee specified in section 33-12-101.

(3) At the time of the original registration and at the time of each annual renewal thereof, the division shall issue to said registrant a validation decal indicating the distinctive number assigned to such vehicle, as provided in subsection (1) of this section, and the validity of the current registration and the expiration date thereof, which validation decal shall be affixed to the off-highway vehicle in such manner as the division may prescribe. Notwithstanding the fact that an off-highway vehicle has been assigned an identifying number, it shall not be considered as validly registered within the meaning of this article unless a validation decal and current registration have been issued.

(4) In the event that an off-highway vehicle sought to be registered or reregistered does not comply with the provisions respecting equipment established by the regulations of the division, the division may deny the issuance of a current registration.

(5) The registration number assigned to an off-highway vehicle shall be displayed on the vehicle at all times in such manner as the division may, by regulation, prescribe.

(6) Every person, while operating an off-highway vehicle in this state which is required to be registered under this article, shall have on his person or in the off-highway vehicle the registration therefor and shall, upon demand of any peace officer authorized to enforce this article, produce for inspection the registration for such off-highway vehicle.

(7) (a) Any person who violates subsection (5) of this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of twenty-five dollars.

(b) Any person who violates subsection (6) of this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars.

33-14.5-105. Transfer or other termination of ownership. (1) If there is a change of ownership of an off-highway vehicle for which a registration has been issued, the new owner shall apply for a new registration from a dealer employed as a licensing agent or from the division. Such application shall set forth the original number issued and shall be accompanied by the old registration properly signed by the previous owner and by the required fee for registration,

pursuant to section 33-10-111 (5).

(2) In the event that an off-highway vehicle was purchased through a dealer, such application must be accompanied by a dealer's form, as prescribed by the division, numbered, completed, and signed by the dealer or his agent and by the new owner.

33-14.5-106. Off-highway vehicle recreation fund - creation - use of moneys. (1) All fees collected from the registration of off-highway vehicles and all fees collected from the sale of off-highway use permits, plus all interest earned on such moneys shall be credited to the off-highway vehicle recreation fund, which fund is hereby created, and shall be used for the administration of this article, for information and awareness on the availability of off-highway vehicle recreational opportunities, for the promotion of off-highway vehicle safety, for the establishment and maintenance of off-highway vehicle routes, parking areas, and facilities, and for the purchase or lease of private land for the purposes of access to public land for uses consistent with the provisions of this article; however, any moneys collected in excess of four dollars per original or renewal registration shall be used exclusively for direct services and not administrative costs. The general assembly shall make annual appropriations from the off-highway vehicle recreation fund for the purposes enumerated in this subsection (1).

(2) All moneys collected for fines imposed pursuant to the provisions of this article shall be distributed as follows:

(a) One-half of such amount collected shall be transferred to the state treasurer for credit to the general fund; and

(b) One-half of such amount collected shall be distributed as follows:

(I) If the citing officer is a park officer, the amount shall be transferred to the state treasurer and credited to the off-highway vehicle recreation fund; or

(II) If the citing officer is a wildlife officer or special wildlife officer, the amount shall be transferred to the state treasurer and credited to the wildlife cash fund; or

(III) If the citing officer is any other peace officer, such amount shall be transferred to the treasurer of the local jurisdiction in which the violation occurred to be credited to the appropriate fund.

(3) Repealed.

33-14.5-107. Rules. (1) The commission shall adopt rules in the manner provided by article 4 of title 24, C.R.S., concerning the following:

(a) Registration of off-highway vehicles and display of registration numbers;

(b) Procedures and requirements to implement and administer the off-highway use permit program, including guidelines in connection with the exemptions therefrom;

(c) Formulation, in cooperation with appropriate federal agencies, of guidelines for uniform maps and signs for use by the state, counties, cities, city and counties, and towns to control, direct, or regulate the operation and use of off-highway vehicles;

(d) The use of off-highway vehicles, but such regulations shall not be inconsistent with the provisions of this article in any way.

33-14.5-108. Off-highway vehicle operation prohibited on streets, roads, and highways. (1) No off-highway vehicle may be operated on the public streets, roads, or highways of this state except in the following cases:

(a) When a street, road, or highway is designated open by the state or any agency or political subdivision thereof;

(b) When crossing streets or when crossing roads, highways, or railroad tracks in accordance with section 33-14.5-108.5;

(c) When traversing a bridge or culvert;

(d) During special off-highway vehicle events lawfully conducted pursuant to the authority granted to local political subdivisions in this article;

(e) During emergency conditions declared by the proper state or local authority;

(f) When local political subdivisions have authorized by ordinance or resolution the establishment of off-highway vehicle routes to permit the operation of off-highway vehicles on city streets or county roads, but no street or road which is part of the state highway system may be so designated;

(g) When using an off-highway vehicle for agricultural purposes;

(h) When authorized under subsection (3) of this section; and

(i) When a public utility, as defined in section 40-1-103 (1), C.R.S., or a cooperative electric association, as defined in section 40-9.5-102, C.R.S., or any agent thereof designated specifically for the purpose of meter reading or repair, is using an off-highway vehicle for business purposes.

(2) Any person who violates subsection (1) of this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars.

(3) (a) Except as otherwise provided in paragraph (d) of this subsection (3), it is unlawful for a person to operate a motor vehicle on any federal public land, trail, or road unless the federal public land, trail, or road is signed or otherwise authorized for such use. A peace officer shall not enforce this paragraph (a) within an administrative unit of federal public land until the controlling land management agency identifies whether a route is available for motorized travel by maps, route markers, or signs that are available to the public and provide information to determine whether the route is authorized. Except for violations occurring within a federal wilderness area, a person who violates this paragraph (a) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of one hundred dollars. A person who violates this paragraph (a) within a federal wilderness area is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of two hundred dollars.

(b) A person is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of one hundred fifty dollars if the person, without authorization, takes either of the following actions with regard to a sign located on federal public land that affects whether motor vehicle travel is or purports to be authorized:

(I) Removes, defaces, or destroys such a sign that was installed by the controlling land management agency; or

(II) Installs such a sign.

(c) A peace officer may enforce this subsection (3).

(d) (I) The prohibition and penalties expressed in paragraphs (a) and (b) of this subsection (3) do not apply to a peace officer in the performance of his or her official duties, a person acting at the direction of a peace officer, or a person otherwise authorized to operate a motor vehicle on the federal public land, trail, or road by legal right or by permission of the controlling land management agency, including administrative and emergency access, facility maintenance, ski area operations, oil and gas operations, logging operations, and motor vehicle use that is authorized under permits, including for special events, recreational uses, firewood gathering, and livestock operations and activities.

(II) Nothing in this subsection (3) affects any authority that the parks and wildlife commission has pursuant to law other than this subsection (3) to regulate motor vehicle travel on lands subject to the commission's jurisdiction.

33-14.5-108.5. Crossing roads, highways, and railroad tracks. (1) The driver of an off-highway vehicle may directly cross a roadway, including a state highway, at an at-grade crossing to continue using the off-highway vehicle on the other side; except that a person shall not cross a state highway within the jurisdiction of a municipality.

(2) A person shall not cross a highway while driving an off-highway vehicle unless the crossing is made in accordance with the following:

(a) The crossing must be made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.

(b) The off-highway vehicle must be brought to a complete stop before crossing the shoulder or, if none, the roadway before proceeding.

(c) The driver must yield the right-of-way to all motor vehicle traffic on the roadway that constitutes an immediate hazard to the crossing.

(d) A driver of an off-highway vehicle must cross a divided highway at an intersection of the highway with another road or highway.

(3) A person who violates this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars.

33-14.5-109. Required equipment - off-highway vehicles. (1) No off-highway vehicle shall be operated upon public land unless it is equipped with the following:

(a) At least one lighted head lamp and one lighted tail lamp, each having the minimum candlepower prescribed by regulation of the division while being operated between the hours of sunset and sunrise;

(b) Brakes and a muffler and spark arrester which conform to the standards prescribed by regulation of the division, which shall be applicable in all cases except for off-highway vehicles being operated in organized competitive events held on private lands with the permission of the landowner, lessee, or custodian of the land, on public lands and waters under the jurisdiction of the division with its permission, or on other public lands with the consent of the public agency

owning the land.

(2) A person who violates subsection (1) of this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars; except that the fine for a violation relating to a spark arrester is one hundred fifty dollars.

33-14.5-110. Regulation by political subdivisions. (1) Any county, city and county, city, or town acting by its governing body may regulate the operation of off-highway vehicles on public lands, waters, and property under its jurisdiction and on streets and highways within its boundaries by resolution or ordinance of the governing body and by giving appropriate notice thereof if such regulation is not inconsistent with the provisions of this article and the rules and regulations promulgated pursuant thereto.

(2) No county, city and county, city or town acting by its governing body may adopt an ordinance which imposes a fee for the use of public land or water under the jurisdiction of any agency of the state or for the use of any access thereto owned by the county, city and county, city, or town; nor shall it require an off-highway vehicle to be licensed or registered in such political subdivision.

33-14.5-111. Enforcement - federal, state, and local cooperation. (1) Every parks and recreation officer, every peace officer of this state and its political subdivisions, and every person commissioned by the division has the authority to enforce the provisions of this article.

(2) The division is authorized to enter into cooperative agreements with federal land management agencies for the purpose of regulating off-highway vehicle use on federal lands.

33-14.5-112. Off-highway use permit - fees - applications - requirements - exemptions. (1) (a) No later than January 1, 1990, the division of parks and recreation shall devise a plan for implementation of the off-highway use permit program.

(b) On and after January 1, 1991, the owner of every vehicle required to be registered pursuant to article 3 of title 42, C.R.S., and the owner or operator of every motor vehicle and off-highway vehicle from another state or country, when such vehicle is being used for recreational travel upon designated off-highway vehicle routes, shall obtain and display on such vehicle an off-highway use permit.

(2) Off-highway use permits shall be sold by the agents referred to in section 33-12-104, and the fee for said permits shall be the fee provided pursuant to section 33-10-111 (5).

(3) Off-highway use permits, when issued on April 1, shall be valid for a one-year period, which runs from April 1 through the following March 31. All permits issued during the year at any time after April 1 shall expire on the following March 31.

(4) Off-highway use permits shall be displayed as required by the division.

(5) The following vehicles shall be exempt from the requirements of this section:

(a) Vehicles owned by the United States or another state or political subdivision thereof

if such ownership is clearly displayed on such vehicles;

(b) Vehicles operated in an organized competitive or noncompetitive event on publicly or privately owned or leased land; except that this exemption shall not apply unless the agency exercising jurisdiction over such land specifically authorizes the organized competitive or noncompetitive event;

(c) Vehicles operated on public land for purposes other than recreational use, which purposes shall include but not be limited to logging, mining, grazing of livestock, firewood-cutting, and the taking of trees for noncommercial purposes.

(6) Any person who violates paragraph (b) of subsection (1) of this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars.

33-14.5-113. Notice of accident. (1) The operator of an off-highway vehicle involved in an accident resulting in property damage of fifteen hundred dollars or more or injuries resulting in hospitalization or death, or some person acting for the operator, or the owner of the off-highway vehicle having knowledge of the accident shall immediately, by the quickest available means of communication, notify an officer of the Colorado state patrol, the sheriff's office of the county wherein the accident occurred, or the office of the police department of the municipality wherein the accident occurred.

(2) Any law enforcement agency receiving a report of accident under this section shall forward a copy thereof to the division, which shall compile statistics annually based upon such reports.

(3) Within forty-eight hours after an accident involving an off-highway vehicle, the accident shall be reported to the Denver office of the division. The report shall be made on forms furnished by the division and shall be made by the owner or operator of the vehicle or someone acting for the owner or operator.

(4) Any person who violates subsection (1) or (3) of this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of seventy-five dollars.

ARTICLE 15

Law Enforcement and Penalties -
Parks and Outdoor Recreation

33-15-101. Powers of officers. (1) Every peace officer, as defined in section 33-10-102 (17), has the authority to enforce this article and shall assist parks and recreation officers in the enforcement of articles 10 to 15 and 32 of this title and the rules of the commission adopted pursuant thereto. Each such officer has the full power and authority to arrest any person who such officer has probable cause to believe is guilty of a violation of articles 10 to 15 or 32 of this title

or any rule adopted pursuant thereto, and, in accordance with the constitutions and laws of the United States and the state of Colorado, to open, enter, and search all places of concealment including motor vehicles and vessels and all other places as provided by law where such officer has probable cause to believe evidence relating to a violation of this title is to be found and to seize the same.

(2) When the public health, safety, welfare, or necessity requires, any officer having the power to enforce the provisions of articles 10 to 15 and 32 of this title shall have the authority to make use of any motor vehicle or other means of transportation, whether privately or publicly owned, to aid such officer in the performance of such officer's duties. In such a case, payment of reasonable compensation shall be made for the use of such motor vehicle or other means of transportation. Any person who refuses to comply with the provisions of this subsection (2) is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of fifty dollars.

33-15-102. Imposition of penalty - procedures. (1) Any person who violates any of the provisions of articles 10 to 15 or 32 of this title or any rule of the commission that does not have a specific penalty listed is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars.

(2) At the time that any person is charged with violating any petty offense or misdemeanor provisions of articles 10 to 15 or 32 of this title or any rule of the commission, the officer shall issue a summons and complaint to the alleged offender or, in the case of a violation for which a fine of a fixed amount is prescribed, may give the alleged offender an opportunity to voluntarily pay the fine and surcharge in the form of a penalty assessment. Penalty assessments shall not be issued for violations for which minimum and maximum fines have been established. The penalty assessment notice given to the alleged offender shall contain the information required in and be in the form of a summons and complaint and shall specify in dollars the amount of the penalty to be assessed for the alleged offense and the amount of the surcharge to be collected pursuant to section 24-33.5-415.6, C.R.S. If the alleged offender accepts such notice and pays the fine and surcharge entered thereon to the division within twenty days of issuance of the notice, such acceptance and payment shall constitute an acknowledgment of guilt by such person of the violation set forth in the penalty assessment notice. Any person who accepts a penalty assessment notice but who does not furnish satisfactory evidence of identity or who the officer has reasonable and probable grounds to believe will disregard a written promise to pay the specified fine and surcharge may be taken by the officer to the nearest known post-office facility and be required to remit the amount of the specified fine and surcharge to the division immediately by mail in United States currency or other legal tender or by money order or personal check. Refusal or inability to remit the specified fine and surcharge by mail when required shall constitute a refusal to accept a penalty assessment notice. Checks tendered by the violator to and accepted by the division and on which payment is received by the division shall be deemed sufficient receipt. If the fine and surcharge are not so paid, then the officer who issued the penalty assessment notice shall docket the summons and complaint with a court of competent jurisdiction for appearance by the person to answer the charges therein contained at such time

and place as is specified in the summons and complaint.

33-15-103. Disposition of fines - notice of court decisions. (1) (a) All moneys collected for fines under this article and articles 10 to 13 and 32 of this title, either by payment of a penalty assessment or assessed by a court upon conviction, shall be transmitted to the state treasurer, who shall credit such moneys to the parks and outdoor recreation cash fund; except that, when an arrest has been made or the citation for any offense, including those committed under article 14 of this title, has been issued by a wildlife officer of the division of parks and wildlife, all moneys collected for the fine shall be transmitted to the state treasurer, who shall credit one-half to the wildlife cash fund and one-half to the general fund.

(b) All moneys collected for fines imposed pursuant to the provisions of article 14.5 of this title shall be distributed as follows:

(I) One-half of such amount collected shall be transferred to the state treasurer for credit to the general fund; and

(II) One-half of such amount collected shall be distributed as follows:

(A) If the citing officer is a park officer, the amount shall be transferred to the state treasurer and credited to the off-highway vehicle recreation fund; or

(B) If the citing officer is a wildlife officer or special wildlife officer, the amount shall be transferred to the state treasurer and credited to the wildlife cash fund; or

(C) If the citing officer is any other peace officer, such amount shall be transferred to the treasurer of the local jurisdiction in which the violation occurred to be credited to the appropriate fund.

(2) The provisions of the "Colorado Crime Victim Compensation Act", article 4.1 of title 24, C.R.S., shall not apply to articles 10 to 15 or 32 of this title, and the costs imposed by said act shall not be levied on criminal actions for violations of articles 10 to 15 or 32 of this title.

(3) It is the duty of every clerk of a court before whom prosecutions and appeals of violators of articles 10 to 15 and 32 of this title are heard, within twenty days after any such trial, appeal, or dismissal thereof, to notify the division in writing of the result thereof and the amount of fine collected, if any, and the disposition of such fine.

(4) No fine, penalty, or judgment assessed or rendered under the provisions of articles 10 to 15 or 32 of this title shall be suspended, reduced, or remitted otherwise than as expressly provided by law.

33-15-104. Items constituting public nuisance - when - seizure. (1) Every motor vehicle, vessel, firearm, or other personal property used or intended for use in recreational pursuits in violation of the provisions of articles 10 to 15 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.

(2) Any personal property subject to seizure, confiscation, and forfeiture or destruction

under the provisions of this section, which is seized as a part of or incident to a criminal proceeding for violation of the provisions of articles 10 to 15 of this title and for which disposition is not provided by another statute of this state, shall be disposed of as provided in this section.

(3) Any personal property, the possession of which is illegal and which in the opinion of the court having jurisdiction over the criminal proceeding is not properly the subject of sale, may be destroyed pursuant to a warrant for the destruction of personal property issued by the court and directed to the division. The court shall stay the execution of any such warrant during the period in which the property is used as evidence in any pending criminal or civil proceeding.

(4) Except as otherwise provided in this section, the court may order any personal property sold by the division in the manner provided for sales on execution. The proceeds of the sale shall be applied as follows:

(a) To the fees and costs of removal and sale;

(b) To the payment of the state's costs on such action; and

(c) The balance, if any, or any portion thereof not otherwise distributed pursuant to this paragraph (c), to the parks and outdoor recreation cash fund. Instead of being deposited in the parks and outdoor recreation cash fund, the court may order that such balance or any portion thereof be transmitted as follows:

(I) To the seizing agency, if the court finds that the proceeds can be used by such agency;

(II) To any person who suffers bodily injury or property damage as a result of the action which constitutes the violation, if said person petitions the court therefor.

(5) In lieu of ordering the sale or destruction of personal property pursuant to this section, the court may, if it finds that it can be used by the agency which seized it, order it delivered to the agency for such use.

33-15-105. Eluding. It is unlawful for any person to elude or attempt to elude by any means a parks and recreation officer or other commissioned officer of the division after having received a visual or audible signal such as a red or red and blue light, a siren, or a voice command directing him to stop. Any person who violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of three hundred dollars.

33-15-106. Fires. (1) On any property under the control of the division, it is unlawful for any person to:

(a) Leave a fire unattended or fail to thoroughly extinguish a fire before leaving it;

(b) Start, build, tend, or maintain a fire in violation of the provisions of any applicable order lawfully issued by a governmental authority that prohibits, bans, or regulates fires during periods of extreme fire hazard and that is designed to promote the safety of persons and property.

(2) (a) Any person who violates paragraph (a) of subsection (1) of this section is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of fifty dollars.

(b) Except as otherwise provided in paragraph (c) of this subsection (2), any person who

violates paragraph (b) of subsection (1) of this section is guilty of a class 2 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than two hundred fifty dollars and not greater than one thousand dollars. The fine imposed by this paragraph (b) shall be mandatory and not subject to suspension. Nothing in this paragraph (b) shall be construed to limit the court's discretion in exercising other available sentencing alternatives in addition to the mandatory fine.

(c) Any person who knowingly violates paragraph (b) of subsection (1) of this section and who knows or reasonably should know that he or she violates any order described in such paragraph that prohibits, bans, or regulates fires commits a class 6 felony.

(3) Any person who starts, builds, tends, or maintains a fire in a careless or reckless manner that indicates either a lack of due regard for the fire hazard present or a wanton and willful disregard for the safety of persons and property is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of one thousand dollars.

(4) In addition to the penalties provided by this section, the court may require the defendant to reimburse the division for the costs of fire suppression in the case of wildfires.

33-15-107. Camping. It is unlawful for any person to camp on land or water under the control of the division unless the area is so designated and posted pursuant to rule of the commission. Any person who violates this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars.

33-15-108. Littering. (1) It is unlawful for any person to litter any land or water under the control of the division. Except as otherwise provided in subsection (2) of this section, any person who violates this section commits a class 2 petty offense and, upon conviction thereof, shall be punished as provided in section 18-4-511, C.R.S.

(2) Any person who throws, drops, or otherwise expels a lighted cigarette, cigar, match, or other burning material from a motor vehicle upon land under the control of the division commits a class 2 misdemeanor and shall be punished as provided in title 18, C.R.S.

33-15-109. Damage to state property. It is unlawful for any person to damage, alter, or destroy any real or personal property or property under the control of the division. Any person who violates this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S. In addition, the court may require the defendant to reimburse the division for damages.

33-15-110. Vehicles and vessels - operation on state property. (1) On any property under the control of the division, it is unlawful for any person:

(a) To operate or park a motor vehicle or vessel, except in designated areas where such operation or parking is authorized by the division;

(b) To operate a motor vehicle or vessel in excess of the posted speed limit;

(c) To park a motor vehicle or vessel in such a manner as to constitute or impede the normal flow of traffic or to leave a motor vehicle or vessel unattended for more than twenty-four hours. Any peace officer may order the removal or towing of any motor vehicle or vessel which is so parked, and such removal or towing shall be done at the expense of the owner and shall be in addition to any other penalty provided by law.

(d) To operate or park a motor vehicle without first purchasing the required valid passes or permits.

(2) Any person who violates this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars.

33-15-111. Motor vehicles - reckless operation. (Repealed)

33-15-112. Motor vehicles - careless operation. It is unlawful for any person to operate a motor vehicle on any property under the control of the division in a careless or imprudent manner without due regard for the width, grade, corners, or curves of, the traffic on, or the traffic regulations governing public roads and without due regard for all other attendant circumstances. Any person who violates this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of one hundred dollars.

33-15-113. Unattended vehicles without valid pass. (1) If an unattended vehicle is parked within an area where a valid parks pass is required and does not display a valid parks pass, a peace officer may place upon the vehicle a notice of summons and complaint pursuant to section 33-15-102 (2). Such notice shall contain the license plate number and state of registration of the vehicle but does not need to contain the identification of the alleged offender.

(2) The notice of summons and complaint shall direct the owner or operator of the vehicle to remit a penalty assessment pursuant to section 33-15-102 to the division within ten days after the issuance of such notice unless the person wishes to appear before a court of competent jurisdiction. If the penalty assessment is not paid within ten days after issuance, the peace officer shall mail a notice to the registered owner of the vehicle, setting forth the offense and the time and place where such offense occurred and directing the payment of the penalty assessment within twenty days after the issuance of the notice unless the person wishes to appear before a court of competent jurisdiction. If the penalty assessment is not paid within twenty days after the date of mailing of the second notice, the peace officer who issued the original penalty assessment notice shall file a complaint with a court of competent jurisdiction and issue and serve upon the registered owner of the vehicle a summons to appear in court at a time and place specified in the summons and to show cause why a penalty should not be imposed pursuant to section 33-15-110.

(3) Payment of a penalty assessment pursuant to subsection (2) of this section to the division shall be deemed to be received on the date it is postmarked.

(4) The registered owner of a motor vehicle is liable for payment of a penalty assessment regardless of whether the owner knew or should have known that the vehicle would be or was parked or left unattended in a manner that violated section 33-15-110.

33-15-114. Commercial use of state property. It is unlawful to operate any commercial business or to solicit business on any property owned or managed by the division without first obtaining written permission from the division or the commission pursuant to this title or any applicable rules promulgated by the commission. Any person who violates this section is guilty of a misdemeanor and, upon conviction, 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.

WILDLIFE - Continued

ARTICLE 20

Birds - Hunting Dogs

33-20-101 to 33-20-116. (Repealed)

ARTICLE 21

Fishing

33-21-101 to 33-21-112. (Repealed)

ARTICLE 22

Furbearers and Trapping

33-22-101 to 33-22-114. (Repealed)

ARTICLE 23

Outfitters, Guides, and Assistant Guides

33-23-101 to 33-23-108. (Repealed)

OUTDOOR RECREATION

ARTICLE 30

Division of Parks and Outdoor Recreation

33-30-101 to 33-30-110. (Repealed)

ARTICLE 31

Vessels

33-31-101 to 33-31-115. (Repealed)

ARTICLE 32

River Outfitters

33-32-101. Legislative declaration. The general assembly declares that it is the policy

of this state to promote and encourage residents and nonresidents alike to participate in the enjoyment and use of the rivers of this state and, to that end, in the exercise of the police powers of this state for the purpose of safeguarding the health, safety, welfare, and freedom from injury or danger of such residents and nonresidents, to license and regulate those persons who provide river-running services in the nature of equipment or personal services to such residents and nonresidents for the purpose of floating on rivers in this state unless the provider of such river-running services is providing such river-running services exclusively for family or friends. It is not the intent of the general assembly to interfere in any way with private land owner rights along rivers or to prevent the owners of whitewater equipment from using said equipment to accommodate friends when no consideration is involved; nor is it the intent of the general assembly to interfere in any way with the general public's ability to enjoy the recreational value of state rivers when the services of river outfitters are not utilized or to interfere with the right of the United States to manage public lands and waters under its control. The general assembly recognizes that river outfitters, as an established business on rivers flowing within and without this state, make a significant contribution to the economy of this state and that the number of residents and nonresidents who are participating in river-running is steadily increasing.

33-32-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Advertise" or "advertisement" means any message in any printed materials or electronic media used in the marketing and messaging of river outfitter operations.

(1.4) and (2) Repealed.

(3) "Guide" means any individual, including but not limited to subcontractors, employed for compensation by any river outfitter for the purpose of operating vessels.

(4) "Guide instructor" means any qualified guide whose job responsibilities include the training of guides.

(5) "Person" means any individual, sole proprietorship, partnership, corporation, nonprofit corporation or organization as defined in section 13-21-115.5 (3), C.R.S., limited liability company, firm, association, or other legal entity either located within or outside of this state.

(5.5) (a) "Regulated trip" means any river trip for which river-running services are provided which has been the subject of an advertisement or for which a fee has been charged regardless of whether such fee is:

(I) Charged exclusively for the river trip or as part of a packaged trip, recreational excursion, or camp; or

(II) Calculated to monetarily profit the river outfitter or is calculated merely to offset some or all of the actual costs of the river trip.

(b) "Regulated trip" does not include a trip in which a person is providing river-running services exclusively for family or friends as part of a social gathering of such family or friends.

(6) "River outfitter" means any person advertising to provide or providing river-running services in the nature of facilities, guide services, or transportation for the purpose of river-running; except that "river outfitter" does not include any person whose only service is providing motor vehicles, vessels, and other equipment for rent, any person whose only service is providing

instruction in canoeing or kayaking skills, or any person who is providing river-running services exclusively for family or friends.

(7) "Trip leader" means any guide whose job responsibilities include being placed in charge of a river trip.

(8) "Vessel" means every description of watercraft used or capable of being used as a means of transportation of persons and property on the water, other than single-chambered air-inflated devices or seaplanes.

33-32-103. Powers and duties of the commission - rules. The commission shall promulgate rules to govern the licensing of river outfitters, to regulate river outfitters, guides, trip leaders, and guide instructors, to ensure the safety of associated river-running activities, to establish guidelines to enable a river outfitter, guide, or trip leader to make a determination that the condition of the river constitutes a hazard to the life and safety of certain persons, and to carry out the purposes of this article. The commission may promulgate rules specifically outlining the procedures to be followed by the commission and by the enforcement section of the division in the event of a death or serious injury during a regulated trip. The commission shall e-mail a notice of every proposed rule to each licensee. The commission shall adopt rules regarding notification to outfitters of certain division personnel changes within ten days of the change and safety training standards and customer and outfitter interaction training standards for division rangers who monitor regulated trips.

33-32-103.5. Variances. The director may grant variances from rules adopted by the commission pursuant to section 33-32-103 to any river outfitter on a case-by-case basis if the director determines that the health, safety, and welfare of the general public will not be endangered by the issuance of such variance.

33-32-104. License required - fee. (1) No person shall act in the capacity of a paid river outfitter or advertise or represent himself or herself as a river outfitter in this state without first obtaining a river outfitter's license in accordance with rules prescribed by the commission.

(2) An applicant for a river outfitter's license shall meet the minimum qualifications pursuant to section 33-32-105 and shall apply on a form prescribed by the commission. All applicants shall pay a nonrefundable license fee in an amount determined by the commission, which fee shall be adequate to cover the expenses incurred for inspections, licensing, and enforcement required by this article, and shall renew such license pursuant to a schedule adopted by the commission upon payment of the fee. License terms shall not exceed three years. The commission may offer licenses that differ in the length of their terms and may stagger the length of license terms so that approximately equal numbers of licensees renew their licenses each year.

(3) Every river outfitter's license shall, at all times, be conspicuously placed on the premises set forth in the license.

33-32-105. Minimum qualifications and conditions for a river outfitter's license. (1) A river outfitter's license may be granted to any river outfitter, either within or without this state, meeting the following minimum qualifications and conditions:

(a) The river outfitter, if a corporation, shall be incorporated pursuant to the laws of this state or duly qualified to do business in this state.

(b) The river outfitter shall submit to the commission evidence of liability insurance in the minimum amount of three hundred thousand dollars' combined single limit for property damage and bodily injury.

(c) The river outfitter shall meet the safety standards for river-running established by the commission by regulation.

33-32-105.5. Minimum qualifications of guides, trip leaders, and guide instructors. (1) Individuals providing the services of guides, trip leaders, or guide instructors shall have the following minimum qualifications and such additional qualifications as the commission may establish by rule:

(a) Guides shall be eighteen years of age or older, possess a valid standard first-aid card, be trained in cardiopulmonary resuscitation, and have fifty hours of training on the river as a guide from a qualified guide instructor.

(b) Trip leaders shall be eighteen years of age or older, possess a valid standard first-aid card, be trained in cardiopulmonary resuscitation, and have logged at least five hundred river miles, of which at least two hundred fifty river miles shall have been logged while acting as a qualified guide and no more than two hundred fifty river miles shall have been logged while acting as a guide on nonregulated trips. Miles from nonregulated trips shall be documented and signed by the trip leader under penalty of perjury, and the licensee shall retain the documents during the term of the trip leader's employment.

(c) Guide instructors shall be eighteen years of age or older, possess a valid standard first-aid card, be trained in cardiopulmonary resuscitation, and have logged at least fifteen hundred river miles, of which at least seven hundred fifty river miles shall have been logged while acting as a qualified guide.

(2) (Deleted by amendment, L. 2010, (HB 10-1221), ch. 353, p. 1642, § 7, effective August 11, 2010.)

33-32-106. Equipment required - employees required to meet minimum qualifications. (1) All licensed river outfitters shall provide the river-outfitting equipment required by rules promulgated by the commission, and said equipment shall be in a serviceable condition for its operation as required by the rules promulgated by the commission.

(2) All river outfitters who employ or contract with guides, trip leaders, or guide instructors shall employ or contract only with such individuals who meet the qualifications provided in section 33-32-105.5 (1) and provided by those rules promulgated by the commission.

33-32-107. River outfitters - prohibited operations - penalties. (1) (a) No river outfitter shall operate a river-outfitting business without a valid license as prescribed by section 33-32-104 or without insurance as provided in section 33-32-105 (1) (b). Any river outfitter that violates this paragraph (a):

(I) Commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.;

(II) Is liable for an administrative penalty of five times the annual licensing fee established pursuant to section 33-32-104 (2).

(b) If the river outfitter is a corporation, violation of this subsection (1) shall result in the officers of said corporation jointly and severally committing a class 2 misdemeanor, and said officers shall be punished as provided in section 18-1.3-501, C.R.S.

(2) It is unlawful for any river outfitter, guide, trip leader, or guide instructor to:

(a) Violate the safety equipment provisions of section 33-13-106. Any person who violates the provisions of this paragraph (a) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of one hundred dollars; except that any person who fails to have one personal flotation device for each person on board as required by section 33-13-106 (3) (a) commits a class 3 misdemeanor and, upon conviction thereof, shall be punished as provided in section 18-1.3-501, C.R.S.

(b) Operate a vessel in a careless or imprudent manner without due regard for river conditions or other attending circumstances, or in such a manner as to endanger any person, property, or wildlife. Any person who violates the provisions of this paragraph (b) is guilty of a class 3 misdemeanor and, upon conviction thereof, shall be punished as provided in section 18-1.3-501, C.R.S.

(c) Operate a vessel with wanton or willful disregard for the safety of persons or property. Any person who violates the provisions of this paragraph (c) is guilty of a class 2 misdemeanor and, upon conviction thereof, shall be punished as provided in section 18-1.3-501, C.R.S.

(3) (Deleted by amendment, L. 94, p. 1229, § 6, effective July 1, 1994.)

(4) (a) No river outfitter or guide shall operate or maintain physical control of or allow any other person to operate or maintain physical control of a vessel on a regulated trip if such river outfitter, guide, or person is under the influence of alcohol or any controlled substance or any combination thereof, as specified in section 33-13-108.1.

(b) Any person who violates this subsection (4) commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

33-32-108. Enforcement. (1) (a) Every peace officer, as defined in this section, has the authority to enforce the provisions of this article and in the exercise of such authority is authorized to stop and board any vessel.

(b) As used in this section, "peace officer" means any division of parks and wildlife officer or any sheriff or city and county law enforcement officer certified by the peace officers standards and training board pursuant to part 3 of article 31 of title 24, C.R.S.

(2) (a) Any actual expenses incurred by a governmental entity for search and rescue efforts stemming from any river running activity conducted for consideration by a river outfitter pursuant to the provisions of this article shall be reimbursed by said river outfitter. Such expenses shall include but not be limited to hours worked, fuel, a reasonable fee for use of equipment, and equipment repair or replacement costs, if any.

(b) Pursuant to paragraph (a) of this subsection (2), any expenses incurred by governmental entities stemming from search and rescue efforts that are reimbursed by a river outfitter shall be distributed as follows:

(I) If to local law enforcement agencies, on a pro rata basis in proportion to the amount of assistance rendered thereby;

(II) If to the division of parks and wildlife, one-half of the moneys shall be credited to the parks and outdoor recreation cash fund, created in section 33-10-111, and one-half shall be credited to the wildlife cash fund, created in section 33-1-112.

(III) (Deleted by amendment, L. 2011, (SB 11-208), ch. 293, p. 1393, § 24, effective July 1, 2011.)

(3) (a) (I) If an authorized representative of the division conducts an inspection or investigation and determines that any provision of this article or any regulation promulgated pursuant to this article has been violated and that such violation creates or may create an emergency condition which may have a significant adverse effect on the health, safety, or welfare of any person, then such authorized representative shall immediately issue an order to the violating party to cease and desist the violating activity.

(II) Any order issued pursuant to this paragraph (a) shall set forth:

(A) The section of this article or the regulation promulgated pursuant to this article allegedly violated;

(B) The factual basis for the allegation of a violation; and

(C) A mandate that all violating activities cease immediately.

(III) (A) The recipient of any cease and desist order issued pursuant to this paragraph (a) may request a hearing to determine whether a violation of this article or of any regulation promulgated pursuant to this article has actually occurred if such request is made in writing within thirty days after the date of the service of the cease and desist order.

(B) Any hearing conducted pursuant to this subparagraph (III) shall be in accordance with article 4 of title 24, C.R.S.

(b) If a person fails to comply with a cease and desist order issued pursuant to paragraph (a) of this subsection (3), the director may request the attorney general or the district attorney for the judicial district in which the alleged violation occurred to bring an action for a temporary restraining order and for injunctive relief to enforce such cease and desist order.

(c) No stay of a cease and desist order may be issued until a hearing at which all parties are present has been held.

33-32-109. Denial, suspension, or revocation of license - disciplinary actions. (1) The commission may deny, suspend, or revoke a river outfitter license, place a licensed river outfitter on probation, or issue a letter of admonition to a licensed river outfitter if

the applicant or holder:

(a) Violates section 33-32-105 or 33-32-106 or uses fraud, misrepresentation, or deceit in applying for or attempting to apply for licensure;

(b) Unlawfully acts as a river outfitter if such violation results in a conviction;

(c) Advertises as a river outfitter in this state without first obtaining a river outfitter license;

(d) Violates any provision of law regulating the practice of river outfitting in another jurisdiction if such violation resulted in disciplinary action against the applicant or holder. Evidence of such disciplinary action shall be prima facie evidence for the possible denial of a license or other disciplinary action in this state if the violation resulting in the disciplinary action in such other jurisdiction would be grounds for disciplinary action in this state.

(e) Violates section 18-4-503 or 18-4-504, C.R.S., resulting in two or more second or third degree criminal trespass convictions within any three- to five-year period while acting as a river outfitter or guide; except that the commission shall be governed by section 24-5-101, C.R.S., when considering any such conviction;

(f) Violates section 33-32-105.5 (1) by employing any person as a guide who fails to meet the requirements of such section; or

(g) Violates any order of the division or commission or any other provision of this article or any rules promulgated under this article.

(2) A plea of nolo contendere or a deferred prosecution shall be considered a violation for the purposes of this section.

(3) (a) Any proceeding to deny, suspend, or revoke a license granted under this article or to place a licensee on probation shall be pursuant to sections 24-4-104 and 24-4-105, C.R.S. Such proceeding may be conducted by an administrative law judge designated pursuant to part 10 of article 30 of title 24, C.R.S.

(b) Any proceeding conducted pursuant to this subsection (3) shall be deemed final for purposes of judicial review. Any appeal of any such proceeding shall be made to the court of appeals pursuant to section 24-4-106 (11), C.R.S.

(4) The commission may deny an application for a river outfitter license or a renewal of a river outfitter's license if the applicant does not meet the requirements specified in section 33-32-105 or 33-32-106.

33-32-110. Advisory committee - repeal. (1) The commission shall appoint a river outfitter advisory committee, consisting of two river outfitters and one representative of the division. The committee shall review and make recommendations concerning rules promulgated and proposed pursuant to this article.

(2) (a) This section is repealed, effective July 1, 2019.

(b) Prior to its repeal, the advisory committee shall be reviewed as provided for in section 2-3-1203, C.R.S.

33-32-111. Fees - river outfitters cash fund. All fees collected under this article shall be transmitted to the state treasurer who shall credit the same to the river outfitters cash fund, which fund is hereby created. The general assembly shall make annual appropriations from such fund for the direct and indirect costs of administration of this article.

33-32-112. Repeal of article. This article and the licensing function of the division are repealed, effective September 1, 2019. Prior to such termination, the licensing function shall be reviewed as provided for in section 24-34-104, C.R.S.

COLORADO NATURAL AREAS

ARTICLE 33

Colorado Natural Areas

33-33-101. Short title. This article shall be known and may be cited as the "Colorado Natural Areas Act".

33-33-102. Legislative declaration. The general assembly hereby finds and declares that certain lands and waters of this state representing diverse ecosystems, ecological communities, and other natural features or phenomena, which are our natural heritage, are increasingly threatened with irreversible change and are in need of special identification and protection and that it is in the public interest of present and future generations to preserve, protect, perpetuate, and enhance specific examples of these natural features and phenomena as an enduring resource. It is the intent of this article to provide a means by which these natural features and phenomena can be identified, evaluated, and protected through a statewide system of designated natural areas.

33-33-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Articles" or "articles of designation" means the documents filed by or at the direction of the owner of a natural area or a government agency having ownership or control thereof with the commission and accepted by the commission in the process of the designation of a natural area as provided in section 33-33-108.

(2) Repealed.

(3) "Council" means the Colorado natural areas council created as an advisory council to the commission by section 33-33-106.

(4) "Designated natural area" means a natural area which is formally designated under the provisions of this article.

(5) and (6) Repealed.

(7) "Inventory" means a compilation of data to identify areas described in subsection (8) of this section.

(8) "Natural area" means a physical and biological area which either retains or has reestablished its natural character, although it need not be completely undisturbed, and which typifies native vegetation and associated biological and geological features or provides habitat for rare or endangered animal or plant species or includes geologic or other natural features of scientific or educational value.

(9) "Program" means the statewide Colorado natural areas program established by this article.

(10) "Registry" means the list of natural areas identified by the council as areas eligible for designation.

(11) "System" means those natural areas designated under the provisions of this article for which articles of designation have been accepted.

33-33-104. Colorado natural areas program. (1) There is hereby established a statewide Colorado natural areas program to implement the intent and provisions of this article. The program shall be administered by the commission through the division with the advice of the council.

(2) The program shall identify and protect certain natural areas in this state which provide, among other benefits, the following benefits:

(a) Serve as examples of the native condition in studies relating to air, water, and soil quality and habitat productivity;

(b) Serve as resource material from which new knowledge may be derived and as a reservoir of genetic material which has present and future value to scientific inquiry;

(c) Provide habitat for rare or endangered animal or plant species;

(d) Serve as outdoor classrooms and laboratories for scientific study by students of all ages; or

(e) Serve as areas of natural beauty, inspiration, and diversity which meet aesthetic needs and which enrich the meaning and enjoyment of human life.

33-33-105. Powers and duties of the commission - rules. (1) The commission, through the division and with the advice of the council, shall administer the program in accordance with this article and has the following additional powers and duties:

(a) To establish and continue an inventory and a registry;

(b) To establish criteria by which inventoried natural areas can be evaluated and selected for the registry and for designation as natural areas; except that no area shall be included in the registry without permission of the owner of the land;

(c) To promulgate rules for the registry and designation of natural areas and for the

development of plans for the management and use of designated natural areas;

(d) To seek and approve, upon recommendation by the council, the designation of natural areas under the provisions of section 33-33-108 and, when necessary, to acquire by gift, devise, or grant the fee or other interest in real property or accept, under section 33-33-108, the designation of real property for inclusion in the system; except that the commission does not have the power of eminent domain for such purposes;

(e) To encourage and oversee scientific research and educational use of the designated natural areas; to conduct or encourage conduction of interpretive programs; and to establish and disseminate information and recommendations pertaining to the system and other natural areas;

(f) To administer and enforce this article and rules adopted pursuant thereto, including the provisions of the articles of a designated natural area; except that the commission has no regulatory jurisdiction under this article over lands or interests therein which are not part of the system;

(g) To cooperate and contract with any federal, state, or local governmental agency, educational institution, private organization, or individual for the purpose of carrying out the provisions of this article;

(h) To publish and submit to the governor every three years, or more often as it deems necessary, a report on the status and condition of each designated natural area and each natural area in the registry;

(i) To accept and disburse moneys and grants made available to the commission under any federal law for the purposes of this article; and

(j) To notify, ninety days prior to the final designation action, the board of county commissioners in the county in which any designation is being considered. At the request of the board of county commissioners, the commission shall hold a public hearing in said county for the purpose of evaluating any local concerns regarding the proposed designation.

(2) It is not a permitted function of the commission under this article to make or pursue direct or indirect objection or opposition before any governing body to any application for development of private lands.

33-33-106. Colorado natural areas council. (1) There is hereby created the Colorado natural areas council as an advisory council to the commission. The council shall advise the commission on the administration of the program and shall approve the registry and recommend the designation of natural areas by the commission.

(2) The council consists of the following seven members:

(a) One member each from the commission and the state board of land commissioners, appointed by their respective commission or board, who serve for three-year terms; and

(b) Five members appointed by the governor, who are individuals with a substantial interest in the preservation of natural areas and who serve for four-year terms.

(3) Vacancies shall be filled in the same manner as original appointments for the balance of the unexpired term. All members of the council shall be residents of the state of Colorado, and no member appointed by the governor shall serve longer than two successive terms.

(4) The council shall, by majority vote of all members, elect its chairman from among the members appointed by the governor. A simple majority of the council membership shall constitute a quorum for the transaction of business.

(5) Members of the council shall receive no compensation for their service on the council but shall be reimbursed for necessary expenses incurred in the performance of their duties.

(6) The council shall hold at least one regular meeting in each quarter of each calendar year and shall keep a record of its proceedings, which shall be open to the public for inspection. Special meetings may be called by the chairman and shall be called by him upon written request therefor signed by two or more members. A written notice of the time and place of each meeting shall be sent to each member.

(7) Any person who was a member of the Colorado natural areas council on January 1, 1988, shall continue to serve for the remainder of the term to which he was appointed.

33-33-107. Responsibilities of the council. (1) The council has the following responsibilities:

(a) To establish procedures for the conduct of council business;

(b) To review the inventory and to approve the registry;

(c) To review and make recommendations on the commission's criteria for and selection of natural areas to be included in the registry and the system; except that no area shall be included in the registry without permission of the owner of the land;

(d) To advise the commission of the promulgation of rules for the registry and for the designation, management, protection, and use of designated natural areas;

(e) To seek and recommend the designation of natural areas by the board as part of the system, as provided in section 33-33-108;

(f) To review and make recommendations regarding scientific research, educational use, interpretive programs, and public information pertaining to designated natural areas;

(g) To review and make recommendations regarding the negotiation and enforcement of the articles of a designated natural area;

(h) To advise the commission on the disbursement of funds for the purposes of this article; and

(i) To review and make recommendations on commission reports made to the governor on the status of the program.

33-33-108. Designation of a natural area. (1) A natural area that has been found by the commission, pursuant to its criteria, to be desirable for inclusion within the system and which inclusion has been approved by the owner of the land, becomes a designated natural area when articles of designation have been filed with the commission by the owner of the land or by a governmental agency having ownership or control of the land and such articles have been accepted by the commission with the advice and recommendation of the council.

(2) Articles of designation filed with the commission under subsection (1) of this section shall:

(a) Constitute a management agreement for the designated natural area;

(b) Contain a purpose clause defining the attributes which are the basis for the area's designation;

(c) Define the respective rights and duties of the owner and the commission;

(d) Contain provisions relating to management, development, use, public access, sale, or transfer of the area;

(e) Provide procedures to be applied in case of any violation of such articles;

(f) Contain such other provisions as may be necessary or advisable to carry out the purposes of this article, which shall include the recognition of reversionary rights if less than fee simple title has been acquired; and

(g) Contain the legal description of the designated property.

(3) The commission may, with the approval or upon the request of the owner of an interest therein and with the approval of the council, amend the articles of a designated natural area.

(4) A notice of the designation shall be certified by the commission to the county clerk and recorder in the county or counties in which the designated natural area is located for filing in the same manner as any document affecting real property.

33-33-109. Effect of article - rights of property owners - water rights - prior designations. (1) Nothing in this article shall be construed as:

(a) Diminishing the rights of owners of property as provided in the constitution of this state or in the constitution of the United States;

(b) Modifying or amending existing laws or court decrees with respect to the determination or administration of water rights;

(c) Affecting any previous designation of an area as a natural area.

33-33-110. Public entities urged to encourage designation of natural areas. State agencies, counties, municipalities, institutions of higher education, and all other entities and institutions of the state and its political subdivisions are empowered and urged to recommend to the commission natural areas within their jurisdictions for inclusion in the system.

33-33-111. Periodic evaluation to be made by commission. The commission shall make an evaluation of each designated natural area every three years, or more often as it deems necessary, to determine whether it is being administered in accordance with the conditions and provisions of the articles of designation. If such conditions and provisions are not being met, the commission may remove the area from the system.

33-33-112. Supplemental protection. The provisions of this article shall supplement and not replace or otherwise affect any existing protective status that a designated natural area

may have under any other law.

33-33-113. Legislative review - termination. (1) The council terminates on September 1, 2024, unless the general assembly votes to renew the legislative mandate of this article. Absent a vote to renew the legislative mandate of this article, the council shall cease all operations within a twelve-month period after September 1, 2024.

(2) Prior to the termination, the department of regulatory agencies shall review the advisory committee as provided for in section 2-3-1203, C.R.S.

RECREATIONAL AREAS AND SKI SAFETY

ARTICLE 40

Parks and Fishing and Hunting Areas

33-40-101 to 33-40-122. (Repealed)

ARTICLE 41

Owners of Recreational Areas - Liability

33-41-101. Legislative declaration. The purpose of this article is to encourage owners of land to make land and water areas available for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

33-41-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Charge" means a consideration paid for entry upon or use of the land or any facilities thereon or adjacent thereto; except that, in a case of land leased to a public entity or in which a public entity has been granted an easement or other rights to use land for recreational purposes, any consideration received by the owner for such lease, easement, or other right shall not be deemed a charge within the meaning of this article nor shall any consideration received by an owner from any federal governmental agency for the purposes of admitting any person constitute such a charge.

(2) "Land" also means roads, water, watercourses, private ways, and buildings, structures, and machinery or equipment thereon, when attached to real property.

(3) "Owner" includes, but is not limited to, the possessor of a fee interest, a tenant, lessee, occupant, the possessor of any other interest in land, or any person having a right to grant permission to use the land, or any public entity as defined in the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S., which has an interest in land.

(4) "Person" includes any individual, regardless of age, maturity, or experience, or any corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, or association, or any other legal entity.

(4.5) "Public entity" means the same as defined in section 24-10-103 (5), C.R.S.

(5) "Recreational purpose" includes, but is not limited to, any sports or other recreational activity of whatever nature undertaken by a person while using the land, including ponds, lakes, reservoirs, streams, paths, and trails appurtenant thereto, of another and includes, but is not limited to, any hobby, diversion, or other sports or other recreational activity such as: Hunting, fishing, camping, picnicking, hiking, horseback riding, snowshoeing, cross country skiing, bicycling, riding or driving motorized recreational vehicles, swimming, tubing, diving, spelunking, sight-seeing, exploring, hang gliding, rock climbing, kite flying, roller skating, bird watching, gold panning, target shooting, ice skating, ice fishing, photography, or engaging in any other form of sports or other recreational activity.

33-41-103. Limitation on landowner's liability. (1) Subject to the provision of section 33-41-105, an owner of land who either directly or indirectly invites or permits, without charge, any person to use such property for recreational purposes does not thereby:

(a) Extend any assurance that the premises are safe for any purpose;

(b) Confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed;

(c) Assume responsibility or incur liability for any injury to person or property or for the death of any person caused by an act or omission of such person.

(2) (a) To the extent liability is found, notwithstanding subsection (1) of this section, the total amount of damages that may be recovered from a private landowner who leases land or a portion thereof to a public entity for recreational purposes or who grants an easement or other rights to use land or a portion thereof to a public entity for recreational purposes for injuries resulting from the use of the land by invited guests for recreational purposes shall be:

(I) For any injury to one person in any single occurrence, the amount specified in section 24-10-114 (1) (a) (I), C.R.S.;

(II) For an injury to two or more persons in any single occurrence, the amount specified in section 24-10-114 (1) (a) (II), C.R.S.

(b) The limitations in this subsection (2) shall apply only when access to the property is limited, to the extent practicable, to invited guests, when the person injured is an invited guest of the public entity, when such use of the land by the injured person is for recreational purposes, and only during the term of such lease, easement, or other grant.

(c) Nothing in this subsection (2) shall limit, enlarge, or otherwise affect the liability of a

public entity.

(d) In order to ensure the independence of public entities in the management of their recreational programs and to protect private landowners of land used for public recreational purposes from liability therefor, except as otherwise agreed by the public entity and a private landowner, a private landowner shall not be liable for a public entity's management of the land or portion thereof which is used for recreational purposes.

(e) For purposes of this subsection (2) only, unless the context otherwise requires:

(I) "Invited guests" means all persons or guests of persons present on the land for recreational purposes, at the invitation or consent of the public entity, and with or without permit or license to enter the land, and all persons present on the land at the invitation or consent of the public entity or the landowner for business or other purposes relating to or arising from the use of the land for recreational purposes if the public entity receives all of the revenues, if any, which are collected for entry onto the land. "Invited guests" does not include any such persons or guests of any person present on the land for recreational purposes at the invitation or consent of the public entity or the landowner if the landowner retains all or a portion of the revenue collected for entry onto the land or if the landowner shares the revenue collected for entry onto the land with the public entity. For the purposes of this subparagraph (I), "revenue collected for entry" does not include lease payments, lease-purchase payments, or rental payments.

(II) "Land" means real property, or a body of water and the real property appurtenant thereto, or real property that was subject to mining operations under state or federal law and that has been abandoned or left in an inadequate reclamation status prior to August 3, 1977, for coal mining operations, or July 1, 1976, for hard rock mining operations, which is leased to a public entity or for which an easement or other right is granted to a public entity for recreational purposes or for which the landowner has acquiesced to public use of existing trails that have historically been used by the public for recreational purposes. "Land", as used in this subsection (2), does not include real property, buildings, or portions thereof which are not the subject of a lease, easement, or other right of use granted to a public entity; except that land on which a landowner has acquiesced to public use of existing trails that have historically been used by the public for recreational purposes need not be subject to a lease, easement, or other right of use granted to a public entity. Nothing in this subparagraph (II) shall be construed to create a prescriptive easement on lands on which a landowner has acquiesced to public use of existing trails that have historically been used by the public for recreational purposes. The incidental use of such private property for recreational purposes shall not establish or presume facts to support land use classification or zoning.

(II.5) "Lease" or "leased" includes a lease-purchase agreement containing an option to purchase the property. Any lease in which a private landowner leases land or a portion thereof to a public entity for recreational purposes shall contain a disclosure advising the private landowner of the right to bargain for indemnification from liability for injury resulting from use of the land by invited guests for recreational purposes.

(II.7) "Management" means the entire range of activities, whether undertaken or not by the public entity, associated with controlling, directing, allowing, and administering the use, operation, protection, development, repair, and maintenance of private land for public

recreational purposes.

(III) "Recreational purposes" includes, but is not limited to, any sports or other recreational activity of whatever nature undertaken by an invited guest while using the land, including ponds, lakes, reservoirs, streams, paths, and trails appurtenant to, of another and includes, but is not limited to, any hobby, diversion, or other sports or other recreational activity such as: Fishing, picnicking, hiking, horseback riding, snowshoeing, cross country skiing, bicycling, swimming, tubing, diving, sight-seeing, exploring, kite flying, bird watching, gold panning, ice skating, ice fishing, photography, or engaging in any other form of sports or other recreational activity, as well as any activities related to such sports or recreational activities, and any activities directly or indirectly resulting from such sports or recreational activity.

(f) Nothing in this subsection (2) shall limit the protections provided, as applicable, to a landowner under section 13-21-115, C.R.S.

33-41-104. When liability is not limited. (1) Nothing in this article limits in any way any liability which would otherwise exist:

(a) For willful or malicious failure to guard or warn against a known dangerous condition, use, structure, or activity likely to cause harm;

(b) For injury suffered by any person in any case where the owner of land charges the person who enters or goes on the land for the recreational use thereof; except that, in case of land leased to a public entity or in which a public entity has been granted an easement or other rights to use land for recreational purposes any consideration received by the owner for such lease, easement, or other right shall not be deemed a charge within the meaning of this article nor shall any consideration received by an owner from any federal governmental agency for the purpose of admitting any person constitute such a charge;

(c) For maintaining an attractive nuisance; except that, if the property used for public recreational purposes contains mining operations that were abandoned or left in an inadequate reclamation status as provided in section 33-41-103 (2) (e) (II) or was constructed or is used for or in connection with the diversion, storage, conveyance, or use of water, the property and the water or abandoned mining operations within such property shall not constitute an attractive nuisance;

(d) For injury received on land incidental to the use of land on which a commercial or business enterprise of any description is being carried on; except that in the case of land leased to a public entity for recreational purposes or in which a public entity has been granted an easement or other rights to use land for recreational purposes, such land shall not be considered to be land upon which a business or commercial enterprise is being carried on.

33-41-105. Article not to create liability or relieve obligation. (1) Nothing in this article shall be construed to:

(a) Create, enlarge, or affect in any manner any liability for willful or malicious failure to guard or warn against a known dangerous condition, use, structure, or activity likely to cause

harm, or for injury suffered by any person in any case where the owner of land charges for that person to enter or go on the land for the recreational use thereof;

(b) Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this article to exercise care in his use of such land and in his activities thereon or from the legal consequences of failure to employ such care;

(c) Limit any liability of any owner to any person for damages resulting from any occurrence which took place prior to January 1, 1970.

33-41-105.5. Prevailing party - attorney fees and costs. The prevailing party in any civil action by a recreational user for damages against a landowner who allows the use of the landowner's property for public recreational purposes shall recover the costs of the action together with reasonable attorney fees as determined by the court.

33-41-106. Ownership of recreational area by another state. No other state of the United States, or agency or political subdivision thereof, shall acquire, own, or operate any land or interest therein in the state of Colorado for park or recreational purposes, except under the terms of an interstate compact.

ARTICLE 42

Recreational Trails

33-42-101 to 33-42-112. (Repealed)

ARTICLE 43

Registration of Recreational Vehicles

33-43-101 to 33-43-107. (Repealed)

ARTICLE 44

33-44-101. Short title. This article shall be known and may be cited as the "Ski Safety Act of 1979".

33-44-102. Legislative declaration. The general assembly hereby finds and declares that it is in the interest of the state of Colorado to establish reasonable safety standards for the operation of ski areas and for the skiers using them. Realizing the dangers that inhere in the sport of skiing, regardless of any and all reasonable safety measures which can be employed, the purpose of this article is to supplement the passenger tramway safety provisions of part 7 of article 5 of title 25, C.R.S.; to further define the legal responsibilities of ski area operators and their agents and employees; to define the responsibilities of skiers using such ski areas; and to define the rights and liabilities existing between the skier and the ski area operator and between skiers.

33-44-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Base area lift" means any passenger tramway which skiers ordinarily use without first using some other passenger tramway.

(2) "Competitor" means a skier actually engaged in competition, a special event, or training or practicing for competition or a special event on any portion of the area made available by the ski area operator.

(3) "Conditions of ordinary visibility" means daylight and, where applicable, nighttime in nonprecipitating weather.

(3.1) "Extreme terrain" means any place within the ski area boundary that contains cliffs with a minimum twenty-foot rise over a fifteen-foot run, and slopes with a minimum fifty-degree average pitch over a one-hundred-foot run.

(3.3) "Freestyle terrain" includes, but is not limited to, terrain parks and terrain park features such as jumps, rails, fun boxes, and all other constructed and natural features, half-pipes, quarter-pipes, and freestyle-bump terrain.

(3.5) "Inherent dangers and risks of skiing" means those dangers or conditions that are part of the sport of skiing, including changing weather conditions; snow conditions as they exist or may change, such as ice, hard pack, powder, packed powder, wind pack, corn, crust, slush, cut-up snow, and machine-made snow; surface or subsurface conditions such as bare spots, forest growth, rocks, stumps, streambeds, cliffs, extreme terrain, and trees, or other natural objects, and collisions with such natural objects; impact with lift towers, signs, posts, fences or enclosures, hydrants, water pipes, or other man-made structures and their components; variations in steepness or terrain, whether natural or as a result of slope design, snowmaking or grooming operations, including but not limited to roads, freestyle terrain, jumps, and catwalks or other

terrain modifications; collisions with other skiers; and the failure of skiers to ski within their own abilities. The term "inherent dangers and risks of skiing" does not include the negligence of a ski area operator as set forth in section 33-44-104 (2). Nothing in this section shall be construed to limit the liability of the ski area operator for injury caused by the use or operation of ski lifts.

(4) "Passenger" means any person who is lawfully using any passenger tramway.

(5) "Passenger tramway" means a device as defined in section 25-5-702 (4), C.R.S.

(6) "Ski area" means all ski slopes or trails and all other places within the ski area boundary, marked in accordance with section 33-44-107 (6), under the control of a ski area operator and administered as a single enterprise within this state.

(7) "Ski area operator" means an "area operator" as defined in section 25-5-702 (1), C.R.S., and any person, partnership, corporation, or other commercial entity having operational responsibility for any ski areas, including an agency of this state or a political subdivision thereof.

(8) "Skier" means any person using a ski area for the purpose of skiing, which includes, without limitation, sliding downhill or jumping on snow or ice on skis, a toboggan, a sled, a tube, a snowbike, a snowboard, or any other device; or for the purpose of using any of the facilities of the ski area, including but not limited to ski slopes and trails.

(9) "Ski slopes or trails" means all ski slopes or trails and adjoining skiable terrain, including all their edges and features, and those areas designated by the ski area operator to be used by skiers for any of the purposes enumerated in subsection (8) of this section. Such designation shall be set forth on trail maps, if provided, and designated by signs indicating to the skiing public the intent that such areas be used by skiers for the purpose of skiing. Nothing in this subsection (9) or in subsection (8) of this section, however, shall imply that ski slopes or trails may not be restricted for use by persons using skis only or for use by persons using any other device described in subsection (8) of this section.

33-44-104. Negligence - civil actions. (1) A violation of any requirement of this article shall, to the extent such violation causes injury to any person or damage to property, constitute negligence on the part of the person violating such requirement.

(2) A violation by a ski area operator of any requirement of this article or any rule or regulation promulgated by the passenger tramway safety board pursuant to section 25-5-704 (1) (a), C.R.S., shall, to the extent such violation causes injury to any person or damage to property, constitute negligence on the part of such operator.

(3) All rules adopted or amended by the passenger tramway safety board on or after July 1, 1979, shall be subject to sections 24-4-103 (8) (c) and (8) (d) and 24-34-104 (9) (b) (II), C.R.S.

33-44-105. Duties of passengers. (1) No passenger shall board a passenger tramway if he does not have sufficient physical dexterity, ability, and knowledge to negotiate or use such facility safely or until such passenger has asked for and received information sufficient to enable him to use the equipment safely. A passenger is required to follow any written or verbal instructions that are given to him regarding the use of the passenger tramway.

(2) No passenger shall:

(a) Embark upon or disembark from a passenger tramway except at a designated area except in the event of a stoppage of the passenger tramway (and then only under the supervision of the operator) or unless reasonably necessary in the event of an emergency to prevent injury to the passenger or others;

(b) Throw or expel any object from any passenger tramway while riding on such device, except as permitted by the operator;

(c) Act, while riding on a passenger tramway, in any manner that may interfere with proper or safe operation of such passenger tramway;

(d) Engage in any type of conduct that may contribute to or cause injury to any person;

(e) Place in an uphill track of a J-bar, T-bar, platter pull, rope tow, or any other surface lift any object that could cause another skier to fall;

(f) Embark upon a passenger tramway marked as closed;

(g) Disobey any instructions posted in accordance with this article or any verbal instructions by the ski area operator regarding the proper or safe use of a passenger tramway unless such verbal instructions are contrary to this article or the rules promulgated under it, or contrary to posted instructions.

33-44-106. Duties of operators - signs. (1) Each ski area operator shall maintain a sign system with concise, simple, and pertinent information for the protection and instruction of passengers. Signs shall be prominently placed on each passenger tramway readable in conditions of ordinary visibility and, where applicable, adequately lighted for nighttime passengers. Signs shall be posted as follows:

(a) At or near the loading point of each passenger tramway, regardless of the type, advising that any person not familiar with the operation of the device shall ask the operator of the device for assistance and instruction;

(b) At the interior of each two-car and multicar passenger tramway, showing:

(I) The maximum capacity in pounds of the car and the maximum number of passengers allowed;

(II) Instructions for procedures in emergencies;

(c) In a conspicuous place at each loading area of two-car and multicar passenger tramways, stating the maximum capacity in pounds of the car and the maximum number of passengers allowed;

(d) At all chair lifts, stating the following:

(I) "Prepare to Unload", which shall be located not less than fifty feet ahead of the unloading area;

(II) "Keep Ski Tips Up", which shall be located ahead of any point where the skis may come in contact with a platform or the snow surface;

(III) "Unload Here", which shall be located at the point designated for unloading;

(IV) "Safety Gate", which shall be located where applicable;

(V) "Remove Pole Straps from Wrists", which shall be located prominently at each loading area;

(VI) "Check for Loose Clothing and Equipment", which shall be located before the "Prepare to Unload" sign;

(e) At all J-bars, T-bars, platter pulls, rope tows, and any other surface lift, stating the following:

(I) "Remove Pole Straps from Wrists", which shall be placed at or near the loading area;

(II) "Stay in Tracks", "Unload Here", and "Safety Gate", which shall be located where applicable;

(III) "Prepare to Unload", which shall be located not less than fifty feet ahead of each unloading area;

(f) Near the boarding area of all J-bars, T-bars, platter pulls, rope tows, and any other surface lift, advising passengers to check to be certain that clothing, scarves, and hair will not become entangled with the lift;

(g) At or near the boarding area of all lifts, regarding the requirements of section 33-44-109 (6).

(2) Other signs not specified by subsection (1) of this section may be posted at the discretion of the ski area operator.

(3) The ski area operator, before opening the passenger tramway to the public each day, shall inspect such passenger tramway for the presence and visibility of the signs required by subsection (1) of this section.

(4) The extent of the responsibility of the ski area operator under this section shall be to post and maintain such signs as are required by subsection (1) of this section in such condition that they may be viewed during conditions of ordinary visibility. Evidence that signs required by subsection (1) of this section were present, visible, and readable where required at the beginning of the passenger tramway operation on any given day raises a presumption that all passengers using said devices have seen and understood said signs.

33-44-107. Duties of ski area operators - signs and notices required for skiers' information. (1) Each ski area operator shall maintain a sign and marking system as set forth in this section in addition to that required by section 33-44-106. All signs required by this section shall be maintained so as to be readable and recognizable under conditions of ordinary visibility.

(2) A sign shall be placed in such a position as to be recognizable as a sign to skiers proceeding to the uphill loading point of each base area lift depicting and explaining signs and symbols which the skier may encounter at the ski area as follows:

(a) The ski area's least difficult trails and slopes, designated by a green circle and the word "easiest";

(b) The ski area's most difficult trails and slopes, designated by a black diamond and the words "most difficult";

(c) The ski area's trails and slopes which have a degree of difficulty that falls between the green circle and the black diamond designation, designated by a blue square and the words "more difficult";

(d) The ski area's extreme terrain shall be signed at the commonly used access designated with two black diamonds containing the letters "E" in one and "X" in the other in white and the words "extreme terrain". The ski area's specified freestyle terrain areas shall be designated with an orange oval.

(e) Closed trails or slopes, designated by an octagonal-shaped sign with a red border around a white interior containing a black figure in the shape of a skier with a black band running diagonally across the sign from the upper right-hand side to the lower left-hand side and with the word "Closed" printed beneath the emblem.

(3) If applicable, a sign shall be placed at or near the loading point of each passenger tramway, as follows:

"WARNING: This lift services (most difficult) or (most difficult and more difficult) or (more difficult) slopes only."

(4) If a particular trail or slope or portion of a trail or slope is closed to the public by a ski area operator, such operator shall place a sign notifying the public of that fact at each identified entrance of each portion of the trail or slope involved. Alternatively, such a trail or slope or portion thereof may be closed with ropes or fences.

(5) The ski area operator shall place a sign at or near the beginning of each trail or slope, which sign shall contain the appropriate symbol of the relative degree of difficulty of that particular trail or slope as set forth by subsection (2) of this section. This requirement shall not apply to a slope or trail designated "easiest" which to a skier is substantially visible in its entirety under conditions of ordinary visibility prior to his beginning to ski the same.

(6) The ski area operator shall mark its ski area boundaries in a fashion readily visible to skiers under conditions of ordinary visibility. Where the owner of land adjoining a ski area closes all or part of his land and so advises the ski area operator, such portions of the boundary shall be signed as required by paragraph (e) of subsection (2) of this section. This requirement shall not apply in heavily wooded areas or other nonskiable terrain.

(7) The ski area operator shall mark hydrants, water pipes, and all other man-made structures on slopes and trails which are not readily visible to skiers under conditions of ordinary visibility from a distance of at least one hundred feet and shall adequately and appropriately cover such obstructions with a shock-absorbent material that will lessen injuries. Any type of marker shall be sufficient, including but not limited to wooden poles, flags, or signs, if the marker is visible from a distance of one hundred feet and if the marker itself does not constitute a serious hazard to skiers. Variations in steepness or terrain, whether natural or as a result of slope design or snowmaking or grooming operations, including but not limited to roads and catwalks or other terrain modifications, are not man-made structures, as that term is used in this article.

(8) (a) Each ski area operator shall post and maintain signs which contain the warning notice specified in paragraph (c) of this subsection (8). Such signs shall be placed in a clearly visible location at the ski area where the lift tickets and ski school lessons are sold and in such a position to be recognizable as a sign to skiers proceeding to the uphill loading point of each base area lift. Each sign shall be no smaller than three feet by three feet. Each sign shall be white with black and red letters as specified in this paragraph (a). The words "WARNING" shall appear on the sign in red letters. The warning notice specified in paragraph (c) of this subsection (8) shall appear on the sign in black letters, with each letter to be a minimum of one inch in height.

(b) Every ski lift ticket sold or made available for sale to skiers by any ski area operator shall contain in clearly readable print the warning notice specified in paragraph (c) of this subsection (8).

(c) The signs described in paragraph (a) of this subsection (8) and the lift tickets described in paragraph (b) of this subsection (8) shall contain the following warning notice:

WARNING

> Under Colorado law, a skier assumes the risk of any injury to person or property resulting from any of the inherent dangers and risks of skiing and may not recover from any ski area operator for any injury resulting from any of the inherent dangers and risks of skiing, including: Changing weather conditions; existing and changing snow conditions; bare spots; rocks; stumps; trees; collisions with natural objects, man-made objects, or other skiers; variations in terrain; and the failure of skiers to ski within their own abilities.

33-44-108. Ski area operators - additional duties. (1) Any motorized snow-grooming vehicle shall be equipped with a light visible at any time the vehicle is moving on or in the vicinity of a ski slope or trail.

(2) Whenever maintenance equipment is being employed to maintain or groom any ski slope or trail while such ski slope or trail is open to the public, the ski area operator shall place or cause to be placed a conspicuous notice to that effect at or near the top of that ski slope or trail. This requirement shall not apply to maintenance equipment transiting to or from a grooming project.

(3) All snowmobiles operated on the ski slopes or trails of a ski area shall be equipped with at least the following: One lighted headlamp, one lighted red tail lamp, a brake system maintained in operable condition, and a fluorescent flag at least forty square inches mounted at least six feet above the bottom of the tracks.

(4) The ski area operator shall have no duty arising out of its status as a ski area operator to any skier skiing beyond the area boundaries marked as required by section 33-44-107 (6).

(5) The ski area operator, upon finding a person skiing in a careless and reckless manner, may revoke that person's skiing privileges. This subsection (5) shall not be construed to create an affirmative duty on the part of the ski area operator to protect skiers from their own or from another skier's carelessness or recklessness.

33-44-109. Duties of skiers - penalties. (1) Each skier solely has the responsibility for knowing the range of his own ability to negotiate any ski slope or trail and to ski within the limits of such ability. Each skier expressly accepts and assumes the risk of and all legal responsibility for any injury to person or property resulting from any of the inherent dangers and risks of skiing; except that a skier is not precluded under this article from suing another skier for any injury to person or property resulting from such other skier's acts or omissions. Notwithstanding any

provision of law or statute to the contrary, the risk of a skier/skier collision is neither an inherent risk nor a risk assumed by a skier in an action by one skier against another.

(2) Each skier has the duty to maintain control of his speed and course at all times when skiing and to maintain a proper lookout so as to be able to avoid other skiers and objects. However, the primary duty shall be on the person skiing downhill to avoid collision with any person or objects below him.

(3) No skier shall ski on a ski slope or trail that has been posted as "Closed" pursuant to section 33-44-107 (2) (e) and (4).

(4) Each skier shall stay clear of snow-grooming equipment, all vehicles, lift towers, signs, and any other equipment on the ski slopes and trails.

(5) Each skier has the duty to heed all posted information and other warnings and to refrain from acting in a manner which may cause or contribute to the injury of the skier or others. Each skier shall be presumed to have seen and understood all information posted in accordance with this article near base area lifts, on the passenger tramways, and on such ski slopes or trails as he is skiing. Under conditions of decreased visibility, the duty is on the skier to locate and ascertain the meaning of all signs posted in accordance with sections 33-44-106 and 33-44-107.

(6) Each ski or snowboard used by a skier while skiing shall be equipped with a strap or other device capable of stopping the ski or snowboard should the ski or snowboard become unattached from the skier. This requirement shall not apply to cross country skis.

(7) No skier shall cross the uphill track of a J-bar, T-bar, platter pull, or rope tow except at locations designated by the operator; nor shall a skier place any object in such an uphill track.

(8) Before beginning to ski from a stationary position or before entering a ski slope or trail from the side, the skier shall have the duty of avoiding moving skiers already on the ski slope or trail.

(9) No person shall move uphill on any passenger tramway or use any ski slope or trail while such person's ability to do so is impaired by the consumption of alcohol or by the use of any controlled substance, as defined in section 18-18-102 (5), C.R.S., or other drug or while such person is under the influence of alcohol or any controlled substance, as defined in section 18-18-102 (5), C.R.S., or other drug.

(10) No skier involved in a collision with another skier or person in which an injury results shall leave the vicinity of the collision before giving his or her name and current address to an employee of the ski area operator or a member of the ski patrol, except for the purpose of securing aid for a person injured in the collision; in which event the person so leaving the scene of the collision shall give his or her name and current address as required by this subsection (10) after securing such aid.

(11) No person shall knowingly enter upon public or private lands from an adjoining ski area when such land has been closed by its owner and so posted by the owner or by the ski area operator pursuant to section 33-44-107 (6).

(12) Any person who violates any of the provisions of subsection (3), (9), (10), or (11) of this section is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars.

33-44-110. Competition and freestyle terrain. (1) The ski area operator shall, prior to use of any portion of the area made available by the ski area operator, allow each competitor an opportunity to reasonably visually inspect the course, venue, or area.

(2) The competitor shall be held to assume the risk of all course, venue, or area conditions, including, but not limited to, weather and snow conditions; obstacles; course or feature location, construction, or layout; freestyle terrain configuration and conditions; and other courses, layouts, or configurations of the area to be used. No liability shall attach to a ski area operator for injury or death to any competitor caused by course, venue, or area conditions that a visual inspection should have revealed or by collisions with other competitors.

33-44-111. Statute of limitation. All actions against any ski area operator or its employees brought to recover damages for injury to person or property caused by the maintenance, supervision, or operation of a passenger tramway or a ski area shall be brought within two years after the claim for relief arises and not thereafter.

33-44-112. Limitation on actions for injury resulting from inherent dangers and risks of skiing. Notwithstanding any judicial decision or any other law or statute to the contrary, including but not limited to sections 13-21-111 and 13-21-111.7, C.R.S., no skier may make any claim against or recover from any ski area operator for injury resulting from any of the inherent dangers and risks of skiing.

33-44-113. Limitation of liability. The total amount of damages which may be recovered from a ski area operator by a skier who uses a ski area for the purpose of skiing or for the purpose of sliding downhill on snow or ice on skis, a toboggan, a sled, a tube, a skibob, a snowboard, or any other device and who is injured, excluding those associated with an injury occurring to a passenger while riding on a passenger tramway, shall not exceed one million dollars, present value, including any derivative claim by any other claimant, which shall not exceed two hundred fifty thousand dollars, present value, and including any claim attributable to noneconomic loss or injury, as defined in section 13-21-102.5 (2), C.R.S., whether past damages, future damages, or a combination of both, which shall not exceed two hundred fifty thousand dollars. If, upon good cause shown, the court determines that the present value of the amount of lost past earnings and the present value of lost future earnings, or the present value of past medical and other health care costs and the present value of the amount of future medical and other health care costs, or both, when added to the present value of other past damages and the present value of other future damages, would exceed such limitation and that the application of such limitation would be unfair, the court may award damages in excess of the limitation equal to the present value of additional future damages, but only for the loss of such excess future earnings, or such excess future medical and other health care costs, or both. For purposes of this section, "present value" has the same meaning as that set forth in section 13-64-202 (7), C.R.S., and "past damages" has the same meaning as that set forth in section 13-64-202 (6), C.R.S. The

existence of the limitations and exceptions thereto provided in this section shall not be disclosed to a jury.

33-44-114. Inconsistent law or statute. Insofar as any provision of law or statute is inconsistent with the provisions of this article, this article controls.

GREAT OUTDOORS PROGRAM

ARTICLE 60

Great Outdoors Colorado Program
- Implementation

33-60-101. Legislative declaration. (1) The general assembly hereby declares that the policies and procedures contained in this article are enacted to facilitate the orderly implementation of article XXVII of the state constitution, adopted at the 1992 general election. The general assembly further declares that the payment of debt service on all obligations due from the fourth quarter of fiscal year 1992-93 through the fourth quarter of fiscal year 1997-98 which are set forth in section 3 (1) (c) of article XXVII of the state constitution are intended to be paid in full from net lottery proceeds. Accordingly, the general assembly finds that legislation which sets forth an orderly method for ensuring that such payments are made in a timely manner is necessary and that the orderly implementation of article XXVII of the state constitution promotes the health, safety, security, and general welfare of the people of the state of Colorado.

(2) The general assembly further declares that the powers granted to the trust fund board to issue bonds and to pledge any moneys deposited or to be deposited into the trust fund for the payment of such bonds are in furtherance of and are consistent with the powers granted to the board created by article XXVII of the Colorado constitution.

33-60-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Bond" means any bond, note, certificate, contract, or obligation for the repayment of borrowed money of the trust fund board authorized by this article.

(1.5) "Net lottery proceeds" means the proceeds of the lottery after the payment of the expenses of the state lottery division and any prizes for the lottery and after a sufficient amount of money has been reserved, as of the end of any fiscal quarter, to ensure the operation of the lottery for the ensuing fiscal quarter.

(2) "State agency" means: The state; every executive department, board, commission, committee, bureau, and office of the state; every state institution of higher education, whether

established by the state constitution or by law, and every governing board thereof; and every independent commission and other political subdivision of the state government. However, such term does not include the state board of the great outdoors Colorado trust fund.

(3) "Trust fund" means the great outdoors Colorado trust fund created pursuant to section 2 of article XXVII of the state constitution.

(4) "Trust fund board" means the state board of the great outdoors Colorado trust fund established pursuant to section 6 of article XXVII of the state constitution.

33-60-103. Distribution of net lottery proceeds - fourth quarter of fiscal year 1992-93 through fourth quarter of fiscal year 1997-98 - insufficiency - loan - repayment from net lottery proceeds. (1) Beginning with the proceeds from the fourth quarter of fiscal year 1992-93 through the fourth quarter of fiscal year 1997-98, the state treasurer shall make monthly distributions of net lottery proceeds as follows:

(a) To the conservation trust fund in the amounts provided in section 24-35-210 (4), C.R.S.; except that, beginning with the proceeds from the fourth quarter of fiscal year 1993-94 through the fourth quarter of fiscal year 1997-98, such distributions shall be made on a quarterly basis;

(a.5) To the division of parks and outdoor recreation in the amounts provided in section 24-35-210 (4), C.R.S.;

(b) (I) No later than September 1, 1993, the state treasurer shall pay the sum of six million dollars out of net lottery proceeds to the city and county of Denver as the final payment under the Colorado convention center contract between the state and the city and county of Denver in the original amount of $36,000,000.

(II) In the event the trust fund board submits a resolution approved by a majority of the members of such board to the state treasurer authorizing that the payment specified in subparagraph (I) of this paragraph (b) be made before September 1, 1993, the state treasurer shall make the payment on that date. Copies of any such resolution shall be submitted to the general assembly and the city and county of Denver.

(c) To the debt service repayment account in the capital construction fund created pursuant to the provisions of section 24-75-302 (3), C.R.S., in an amount sufficient to defray all payments of principal and interest due on or before the date of the distribution for the payment of the following outstanding financial obligations of the state:

(I) 1992 master lease purchase agreement in the original principal amount of $108,310,000, less the principal amount of $5,700,000 or the appraised value, whichever is greater, for the Kipling facility building, which shall not be included. The 1992 master lease purchase agreement represents the refunding of the following certificates of participation:

(A) 1979 certificates of participation for the following projects: Wheat Ridge, Colorado project (issue A) in the original amount of $6,895,000; Pueblo, Colorado project (issue B) in the original amount of $5,320,000; and Grand Junction, Colorado project (issue C) in the original amount of $4,735,000;

(B) 1986 master lease purchase agreement in the original amount of $36,495,000;

(C) 1988 master lease purchase agreement in the original amount of $63,025,000;

(D) 1989 master lease purchase agreement in the original amount of $66,894,861.85; except that such refunding represents only that portion of the certificates which mature on and after November 1, 1999;

(II) 1990 master lease purchase agreement in the original amount of $28,635,000; and

(III) 1989 master lease purchase agreement in the original amount of $66,894,861.85, but only to the extent of payment for debt service from and including September 1, 1993, to and including November 30, 1998.

(2) (a) Pursuant to article XXVII of the state constitution, payments on the obligations set forth in subsection (1) of this section shall be made from the lottery fund created in section 24-35-210, C.R.S., pursuant to the following schedule of principal and interest payments:

1989 1989 1989 1990 1 9 9 0
1992

DOT
PAYMENT CONVENTION PRISON AURARIA HIGHWAY P R I S O N
AURARIA REFUNDING
DATE CENTER II CLASSROOM C O M P U T E R S
III BLEACHERS ISSUE TOTAL

09/01/93 6,000,000.00*
6,000.000.00
11/01/93 3,429,265.68 1,792,815.72 5 3 , 0 6 6 . 1 0
2,389,645.00 62,202.50 9,416,936.88 17,143,931 .88
05/01/94 3,493,486.00 379,921.54 1 , 3 3 9 , 0 1 9 . 9 6
2,375,622.50 60,470.00 3,526,731.88 11,175,251 .88
11/01/94 2,364,849.69 1,783,805.06 2 2 , 6 8 5 . 2 5
2,224,462.50 58,710.00 12,695,963.13 19,150,47 5.63
05/01/95 2,382,696.55 275,358.10 1 , 3 8 9 , 8 2 2 . 8 5
2,231,342.50 61,950.00 8,577,041.25 14,918,211 .25
11/01/95 1,934,687.89 1,763,069.61
1,590,442.50 12,883,231.25 18,171,431.25
05/01/96 1,960,261.79 144,965.71
1,638,555.00 8,386,076.25 12,129,858.75
11/01/96 1,704,875.79 1,746,182.21
2,763,295.00 17,791,696.25 24,006,049.25
05/01/97 1,452,198.40 297,801.60
2,784,590.00 8,002,106.25 12,536,696.25
11/01/97 4,393,873.38 2,021,126.62
1,026,342.50 8,607,875.00 16,049,217.50
05/01/98 4,298,134.18 416,865.82

1,039,207.50 7,945,356.25 13,699,563.75
11/01/98 1,700,000.00
2,465,307.5 0 6,820,231.25 10,985,538.75

TOTAL 6,000,000.00 27,414,329.35 1 2 , 3 2 1 , 9 1 1 . 9 9
2,804,594.16 22,528,812.50 243,332.50 1 0 4 , 6 5 3 , 2 4 5 . 6 4
175,966,226.14

* Payment may be made prior to September 1, 1993, if authorized by the trust fund pursuant to section 33-60-103 (1) (b) (II).

(b) All principal and interest payment amounts set forth in paragraph (a) of this subsection (2) are subject to bank charges, arbitrage calculation, insurance premiums, and other miscellaneous charges which were not calculable at the time principal and interest payment amounts were determined and are determined and payable in the year in which any given payment is due. Such charges are a part of each payment due pursuant to the certificates of participation enumerated in this section.

(3) Subject to the provisions of subsection (4) of this section, remaining net lottery proceeds, if any, shall be deposited no less frequently than quarterly in trust for the trust fund board. Deposits in trust for the trust fund board, or a portion thereof, may be deferred only to the extent that payments on certificates of participation pursuant to paragraph (c) of subsection (1) of this section are due on or before the date of distribution or balances due on loans authorized pursuant to subsection (4) of this section are outstanding on the date of distribution.

(4) Pursuant to amendment XXVII of the state constitution, the sum of all distributions of net lottery proceeds made to the capital construction fund from the fourth quarter of fiscal year 1992-93 through the fourth quarter of fiscal year 1997-98 shall include payment in full of all debt service due from and including September 1, 1993, to and including November 30, 1998, on all obligations set forth in section 3 (1) (c) of article XXVII of the state constitution. In the event net lottery proceeds are insufficient to defray payments of principal and interest on the obligations according to the schedule set forth in subsection (2) of this section, the state treasurer shall transfer sufficient funds in an amount not to exceed the amount of such insufficiency to the debt service repayment account in the capital construction fund created by section 24-75-302 (3), C.R.S., for the purpose of defraying such payments. Such transfer shall be in the form of a loan from moneys in the general fund not immediately required to be disbursed and shall bear interest at the earnings rate calculated monthly by the state treasurer. In the event any such loan is required to be made, succeeding distributions of net lottery proceeds shall be made in accordance with subsections (1) and (2) of this section. Thereafter, net lottery proceeds in an amount not to exceed the outstanding amount of the loan plus interest accrued shall be transferred to the debt service repayment account in the capital construction fund created by section 24-75-302 (3), C.R.S., for the purpose of repaying the general fund for such loan. No distribution shall be made pursuant to subsection (3) of this section until the principal and interest on such loan is repaid in full.

33-60-104. Distribution of net lottery proceeds beginning first quarter of fiscal year 1998-99. (1) For the first quarter of fiscal year 1998-99 and for each quarter thereafter, the state treasurer shall distribute net lottery proceeds as follows:

(a) Forty percent to the conservation trust fund for distribution to municipalities and counties and other eligible entities for parks, recreation, and open space purposes;

(b) Ten percent to the division of parks and wildlife for the acquisition, development, and improvement of new and existing state parks, recreation areas, and recreational trails; and

(c) All remaining net lottery proceeds in trust to the trust fund board; except that, in any

state fiscal year in which the portion of net lottery proceeds which would otherwise be given in trust to the trust fund board exceeds the adjusted amount of thirty-five million dollars as determined by the state treasurer in accordance with subsection (2) of this section, the net lottery proceeds in excess of such adjusted amount shall be allocated to the general fund.

(2) Beginning with the first quarter of fiscal year 1998-99 and each fiscal year thereafter, the base amount of thirty-five million dollars shall be adjusted annually based on the decrease or increase, if any, in the consumer price index for the Denver metropolitan area, for the preceding calendar year reported by the United States bureau of labor statistics, or its successor index. Such adjustment shall reflect changes, if any, in such index from the actual consumer price index for the Denver metropolitan area, for the calendar year 1992.

33-60-104.5. Property acquired by state agencies with funds from the great outdoors Colorado trust fund - payments in lieu of taxes - restrictions - legislative declaration. (1) (a) The general assembly hereby finds and declares that:

(I) The withdrawal of property from county tax rolls as a result of the purchase of interests in real property by state agencies with funds provided from the great outdoors Colorado trust fund may have a significant financial impact on the counties and other political subdivisions in which such property is located;

(II) When state agencies acquire interests in real property with moneys from the great outdoors Colorado trust fund and remove them from the tax rolls, the agencies acquiring the interests shall make payments in lieu of taxes to the counties in which the property underlying the interest is located in order to alleviate the financial burdens such acquisitions create; and

(III) Section 10 of article XXVII of the state constitution provides that payments in lieu of taxes for acquisitions of property pursuant to article XXVII shall be made from moneys made available by the great outdoors Colorado trust fund.

(b) It is therefore the intent of this section to address the financial impact resulting from acquisitions of interests in real property by state agencies and to implement section 10 of article XXVII of the state constitution by establishing a mechanism for payments in lieu of taxes to be made from the great outdoors Colorado trust fund.

(2) Whenever a state agency acquires an interest in real property using moneys from the trust fund pursuant to article XXVII of the state constitution and the interest is no longer subject to property taxation as a result of such acquisition, the agency that holds the interest shall pay annually to the treasurer of the county in which the property is located a payment in lieu of taxes that shall not exceed the amount of taxes that would be due if the interest was taxable.

(3) (a) In accordance with section 10 of article XXVII of the state constitution and subject to the provisions of this section, the annual payments described in subsection (2) of this section shall be made with funds made available from the trust fund in the manner set forth in this subsection (3).

(b) Each year during the regular tax assessment period, the board of county commissioners of each county in which a real property interest described in subsection (2) of this section is located shall provide to each state agency that holds such real property interests the following information in the same manner as such information is provided to any other owner of

property in the county:

(I) The current assessed value of each real property interest, expressed in dollars;

(II) The amount of the payment in lieu of taxes due on each real property interest, based on the value and tax rate that would be applicable to the real property interest if it were taxable; and

(III) The date the payment in lieu of taxes is due for such real property interests, based on the date property taxes within the county are due.

(c) Each state agency that receives information from a board of county commissioners pursuant to this subsection (3) shall promptly forward such information to the trust fund board. In addition, for each real property interest reported, the agency shall provide information to the trust fund board concerning the portion of the total acquisition cost of the interest that was paid with moneys from the trust fund.

(d) The trust fund board shall pay from the trust fund to the reporting state agency that portion of the payment in lieu of taxes that is equivalent to the portion of the total acquisition cost of the interest that was paid with moneys from the trust fund. The trust fund board shall be responsible for ensuring that timely payment is made to each state agency.

(e) Each state agency that receives a payment from the trust fund board pursuant to this subsection (3) shall promptly transmit the payment, along with any other amounts payable by the agency as part of the payment in lieu of taxes and appropriated by the general assembly, to the county entitled to receive it.

(4) The treasurer of each county that receives a payment in lieu of taxes pursuant to this section shall pay over to each school district, special district, or other political subdivision in which a real property interest described in subsection (2) of this section is located its appropriate share of the total payment; except that the treasurer may deduct the costs incurred by the treasurer in administering this subsection (4).

(5) Every state agency that makes a payment in lieu of taxes that will be distributed, in whole or in part, to a school district and every school district that receives a payment in lieu of taxes shall report the amount paid or received to the state board of education.

(6) The general assembly may make appropriations for the purpose of funding a state agency's share of payments in lieu of taxes to any county entitled to receive such payments. Appropriations concerning lands purchased with wildlife cash or other wildlife moneys shall be made from the wildlife cash fund. Appropriations concerning lands purchased with parks and outdoor recreation cash or other parks and outdoor recreation moneys shall be made from the parks and outdoor recreation cash fund.

(7) In the event a state agency does not receive funds from the trust fund board to make the payments in lieu of taxes described in this section by the date that property taxes within the county are due, the agency shall not be authorized to accept any grants or other funding assistance from the trust fund board for acquisition of interests in real property until such payments are brought up to date.

(8) Nothing in this section shall be construed to alter the requirements of section 30-25-302, C.R.S., pertaining to property acquired by the division of parks and wildlife without assistance from the trust fund board.

33-60-105. Use of general fund moneys by state agencies - prohibition - cash funds. The general assembly finds that the enactment of article XXVII of the state constitution dedicates a significant amount of moneys previously available to meet other state needs to the great outdoors Colorado trust fund and provides for the unrestricted expenditure of such moneys by the trust fund board for the preservation, protection, enhancement, and management of the state's wildlife, park, river trail, and open space heritage. Accordingly, no general fund moneys shall be used by any state agency for the purpose of funding necessary or incidental management costs which result from a distribution of moneys, land, or any other asset of the great outdoors Colorado trust fund, unless otherwise approved by the general assembly. Moneys derived from user fees and other revenue sources which are generated from programs and completed facilities funded by the great outdoors Colorado trust fund board shall not be transferred or revert to the general fund. Moneys generated from such programs and facilities at state parks shall be credited to the parks and outdoor recreation cash fund created by section 33-10-111 (1). All such moneys shall be subject to annual appropriation by the general assembly.

33-60-106. Report required - general appropriations act. On or before September 1 of each year beginning with 1993, each state agency that has received or is scheduled to receive moneys from the great outdoors Colorado trust fund shall provide the senate agriculture, natural resources, and energy committee and the house of representatives agriculture, livestock, and natural resources committee with a detailed accounting of all such moneys received or to be received along with a detailed accounting of how such moneys have been or will be expended. For informational purposes, the expenditure of such moneys may be indicated in the annual general appropriation act.

33-60-107. State board of the great outdoors Colorado trust fund. (1) Public members of the state board of the great outdoors Colorado trust fund shall be appointed by the governor. Such appointments shall be subject to the consent of the senate.

(2) Members of the state board of the great outdoors Colorado trust fund shall be subject to removal pursuant to section 6 of article IV of the Colorado constitution.

(3) In addition to its other powers under article XXVII of the Colorado constitution and this article, the trust fund board shall have the power to issue bonds to finance any expenditure to address urgent and permanent land acquisition priorities, including the acquisition of perpetual conservation easements, that may be made from the trust fund and may pledge all or any portion of the moneys deposited or to be deposited into the trust fund for the payment of the bonds. The owners or holders of the bonds may not look to any other revenues of the state other than the trust fund for the payment of the bonds. The bonds shall be issued on the terms and subject to the conditions set forth in section 33-60-108. Notwithstanding any other provision of this article, the bonds may only be issued if the registered electors of the state approve the ballot question submitted at the November 2001 statewide election pursuant to section 33-60-114. The amount

of any debt incurred and the repayment costs for any bonds issued by the board shall not exceed the maximum amounts of debt and repayment costs approved by the voters in such election.

33-60-108. Bonds. (1) The trust fund board may, from time to time, issue bonds to finance any expenditure to address urgent and permanent land acquisition priorities, including the acquisition of perpetual conservation easements, that may be made from the trust fund. The bonds shall be issued pursuant to a resolution of the trust fund board and shall be payable solely out of all or any portion of the moneys deposited or to be deposited into the trust fund as specified by the trust fund board.

(2) As provided in the resolution of the trust fund board under which the bonds are authorized to be issued or as provided in a trust indenture between the trust fund board and any commercial bank or trust company having trust powers, the bonds may:

(a) Be executed and delivered by the trust fund board at such times as may be provided in the resolution or indenture;

(b) Be in such form and denominations and include such terms and maturities as may be provided in the resolution or indenture;

(c) Be subject to optional or mandatory redemption prior to maturity with or without a premium;

(d) Be in fully registered form or bearer form registrable as to principal or interest or both or be in the form of coupon bonds that have attached interest coupons bearing a manual or facsimile signature of an officer of the trust fund board;

(e) Bear such conversion privileges as may be provided in the resolution or indenture;

(f) Be payable in such installments and at such times not exceeding twenty years from the date thereof;

(g) Be payable at such place or places whether within or without the state;

(h) Bear interest at such rate or rates per annum, which may be fixed or vary according to index, procedure, or formula, or as determined by the trust fund board or its agents, without regard to any interest rate limitation appearing in any other law of the state;

(i) Be subject to purchase at the option of the holder or the trust fund board and evidenced in such manner;

(j) Be executed by the officers of the trust fund board, including the use of one or more facsimile signatures so long as at least one manual signature appears on the bonds, which signatures may be either of an officer of the trust fund board or of an agent authenticating the same; and

(k) Contain such other provisions not inconsistent with this article.

(3) The bonds may be sold at public or private sale at such price, in such manner, and at such times as determined by the trust fund board, and the trust fund board may pay all fees, expenses, and commissions that it deems necessary or advantageous in connection with the sale of the bonds. The power to fix the date of sale of the bonds, to receive bids or proposals, to award and sell bonds, to fix interest rates, and to take all other action necessary to sell and deliver the bonds may be delegated to an officer or agent of the trust fund board. Any outstanding bonds may be refunded by the trust fund board pursuant to article 56 of title 11, C.R.S. All bonds and

any interest coupons applicable thereto are declared to be negotiable instruments. The trust fund board may apply any or all of the provisions of articles 55 and 57 of title 11, C.R.S., in connection with the issuance of the bonds.

(4) The resolution or trust indenture authorizing the issuance of the bonds may pledge all or any portion of the moneys deposited or to be deposited into the trust fund, may contain such provisions for protecting and enforcing the rights and remedies of holders of any of the bonds as the trust fund board deems appropriate, may set forth the rights and remedies of the holders of any of the bonds, and may contain provisions that the trust fund board deems appropriate for the security of the holders of the bonds, including, but not limited to, provisions for letters of credit, insurance, standby credit agreements, or other forms of credit ensuring timely payment of the bonds, including the redemption price or the purchase price.

(5) Any pledge of moneys, revenues, or property for the payment of the bonds made by the trust fund board or by any other person shall be valid and binding from the time the pledge is made. The pledge shall be valid and binding as of the time it is made and the moneys, revenues, or property so pledged shall immediately be subject to the lien of the pledge without any physical delivery, filing, or further act. The lien of the pledge and the obligations of the trust fund board and any other person to perform the contractual provisions made in the instrument authorizing the issuance of the bonds shall be valid and binding against all persons having claims of any kind in tort, contract, or otherwise against the trust fund board and any other person, irrespective of whether such claiming party has notice of such lien and irrespective of whether such instrument is recorded or filed, and shall, except as otherwise provided in the instrument authorizing the issuance of the bonds or making the pledge, have priority over any and all obligations and liabilities of the trust fund board. The creation, perfection, enforcement, and priority of the pledge of money, revenues, or property for the payment of the bonds shall be governed by this article and the instrument authorizing the issuance of the bonds.

(6) None of the directors or employees of the trust fund board or any person executing the bonds shall be liable personally on the bonds or subject to any personal liability or accountability by reason of the issuance thereof.

(7) The trust fund board may purchase its bonds out of any available funds and may hold, pledge, cancel, or resell the bonds subject to and in accordance with agreements with the holders thereof.

33-60-109. Investments. (1) Except as provided in subsection (2) of this section, any proceeds from the issuance of bonds by the trust fund board that are credited to the trust fund shall be invested in the same manner as all other moneys credited to the trust fund as provided by law.

(2) The trust fund board may direct a corporate trustee that holds proceeds from the issuance of bonds to invest or deposit the proceeds in investments or deposits other than those authorized for the trust fund if the trust fund board determines, by resolution, that the investment or deposit meets the standard established in section 15-1-304, C.R.S., the income is at least comparable to income available on investments or deposits authorized for the trust fund, and the investment will assist the trust fund board in making expenditures in furtherance of the great

outdoors Colorado program.

33-60-110. Exemption from taxation. Any bonds issued by the trust fund board and the transfer of and the income from any bonds issued by the trust fund board are exempt from all taxation and assessments in the state. In the resolution authorizing the bonds, the trust fund board may waive the exemption from federal income taxation for interest on the bonds.

33-60-111. Bonds eligible for investment. All banks, trust companies, savings and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries may legally invest any moneys within their control in any bonds issued by the trust fund board pursuant to section 33-60-108. Public entities, as defined in section 24-75-601 (1), C.R.S., may invest public funds in the bonds only if the bonds satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.

33-60-112. No action maintainable. An action or proceeding at law or in equity to review any acts or proceedings or to question the validity or enjoin the performance of any act or proceedings or the issuance of any bonds issued pursuant to section 33-60-108, or for any other relief against or from any acts or proceedings done in connection with the issuance of such bonds, whether based upon irregularities or jurisdictional defects, shall not be maintained unless commenced within thirty days after the performance of the act or proceedings or the effective date thereof, whichever occurs first, and is thereafter perpetually barred.

33-60-113. Judicial examination of powers, acts, proceedings, or contracts of the trust fund board. In its discretion, the trust fund board may file a petition at any time in the district court in and for any county in the state praying for a judicial examination and determination of any power conferred to the trust fund board, any revenue-raising power exercised or that may be exercised by the trust fund board, or any act, proceeding, or contract of the trust fund board, whether or not the contract has been executed, relating to the issuance of bonds by the trust fund board pursuant to section 33-60-108. The judicial examination and determination shall be conducted in substantially the manner set forth in section 32-4-540, C.R.S.; except that the notice required shall be published once a week for three consecutive weeks and the hearing shall be held not less than thirty days nor more than forty days after the filing of the petition.

33-60-114. Submission of ballot question regarding issuance of bonds. (1) The secretary of state shall submit a ballot question to a vote of the registered electors of the state of Colorado at the statewide election to be held in November 2001 for their approval or rejection. Each elector voting at said November election shall cast a vote as provided by law either "Yes"

or "No" on the proposition: "Shall the state board of the great outdoors Colorado trust fund debt be increased $115,000,000, with a maximum repayment cost of $180,000,000, with no increase in any taxes, for the purpose of enhancing the great outdoors Colorado trust fund's ability to address urgent and permanent land acquisition priorities, including the acquisition of perpetual conservation easements, in order to protect the state's wildlife, park, river, trail, and open space heritage through the issuance of bonds, and shall earnings on the proceeds of such bonds constitute a voter-approved revenue change?"

(2) The votes cast for the adoption or rejection of the question submitted pursuant to subsection (1) of this section shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress.