

HOUSE SUBSTITUTE TO SENATE BILL 474

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 27 of the Official Code of Georgia Annotated, relating to game and fish, so
 2 as to define certain terms; to specify a date certain for rules and regulations of the Board of
 3 Natural Resources used to establish game and fish criminal violations; to provide that
 4 persons under the age of 16 may hunt certain wildlife at certain times; to change certain
 5 provisions relating to seasons and bag limits; to regulate the exporting, farming, and selling
 6 of fresh-water turtles; to provide for rules and regulations; to provide that in general any
 7 person may take possession of native wildlife which has been killed by a motor vehicle; to
 8 provide exceptions and conditions; to require notification in the case of bear; to make certain
 9 findings and declarations; to regulate the use of fertility control of wildlife; to establish a
 10 permit application for applying fertility control to wildlife; to require a permit for applying
 11 fertility control to wildlife; to provide for rules and regulations; to provide for penalties; to
 12 change certain provisions relating to possessing weakfish; to amend Chapter 1 of Title 41 of
 13 the Official Code of Georgia Annotated, relating to general provisions relative to nuisances,
 14 so as to provide that hunting operations shall not be nuisances under certain conditions; to
 15 provide for related matters; to provide for an effective date; to repeal conflicting laws; and
 16 for other purposes.

17 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

18 **SECTION 1.**

19 Title 27 of the Official Code of Georgia Annotated, relating to game and fish, is amended in
 20 Code Section 27-1-2, relating to definitions, by adding a new paragraph to read as follows:

21 "(29.2) 'Fresh-water turtle' means any turtle or its eggs within the families Chelydridae,
 22 Emydidae (excluding Malaclemys terrapin and Terrapene carolina), Kinosternidae, and
 23 Trionychidae."

24 **SECTION 2.**

25 Said title is further amended by revising Code Section 27-1-39, relating to rules and
 26 regulations of the Board of Natural Resources used to establish game and fish criminal
 27 violations, as follows:

28 "27-1-39.

29 Notwithstanding any other law to the contrary, for purposes of establishing criminal
 30 violations of the rules and regulations promulgated by the Board of Natural Resources as
 31 provided in this title, the terms 'rules and regulations' shall mean those rules and regulations
 32 of the Board of Natural Resources in force and effect on ~~January 1, 2008~~ January 1, 2010."

33 **SECTION 3.**

34 Said title is further amended by revising paragraph (2) of Code Section 27-3-4, relating to
 35 legal weapons for hunting wildlife generally, as follows:

36 "(2) During primitive weapon hunts or primitive weapons seasons, ~~longbows;~~

37 (A) Longbows, recurve bows, crossbows, compound bows, muzzleloading firearms of
 38 .44 caliber or larger, and muzzleloading shotguns of 20 gauge or larger loaded with
 39 single shot may be used; and

40 (B) Youth under 16 years of age may hunt deer with any firearm legal for hunting
 41 deer."

42 **SECTION 4.**

43 Said title is further amended by revising paragraph (12) of subsection (b) of Code Section
 44 27-3-15, relating to seasons and bag limits, as follows:

45 "(12) Bear Sept. 8 — Jan. 15 † 2 † 2"

46 **SECTION 5.**

47 Said title is further amended by adding a new Code section to read as follows:

48 "27-3-19.1.

49 (a) It shall be unlawful to export, farm, or sell any fresh-water turtle or part thereof except
 50 in accordance with rules and regulations adopted by the board.

51 (b) As the board deems appropriate for purposes of this Code section, it may promulgate
 52 such rules and regulations as are reasonable and necessary under sound wildlife
 53 management practices."

54 **SECTION 6.**

55 Said title is further amended by revising paragraph (3) of subsection (a) of Code Section
 56 27-3-26, relating to hunting bears, restrictions, and penalties, as follows:

57 "(3) Possess or transport a freshly killed bear or bear part except during the open season
58 for hunting and taking bears and except as provided in Code Section 27-3-28."

59 **SECTION 7.**

60 Said title is further amended by adding a new Code section to read as follows:

61 "27-3-28.

62 (a) Except as otherwise provided in this Code section, any person may lawfully possess
63 native wildlife which has been accidentally killed by a motor vehicle. The following
64 exceptions and conditions to this general rule shall apply:

65 (1) Any person taking possession of a bear accidentally killed by a motor vehicle shall
66 notify the department or a law enforcement officer of the fact and location of the taking
67 of possession and his or her name and address within 48 hours after taking possession of
68 the bear; and

69 (2) This Code section shall not authorize any person to take possession of any animal of
70 a species designated as a protected species under Article 5 of this chapter or under federal
71 law.

72 (b) A law enforcement officer receiving a report of a person taking possession of a bear
73 under paragraph (1) of subsection (a) of this Code section shall in turn transmit the reported
74 information to the department within 48 hours after receipt of such information."

75 **SECTION 8.**

76 Said title is further amended by repealing and reserving Code Section 27-3-47, relating to
77 collision with a deer by a motor vehicle, as follows:

78 "27-3-47.

79 ~~Reserved. Any person who, while driving a motor vehicle, is involved in a collision with~~
80 ~~a deer shall, if the deer is killed, immediately notify the nearest conservation ranger or~~
81 ~~sheriff's office. If there exists a charitable institution or prison within the county which can~~
82 ~~make use of the carcass, the conservation ranger may deliver the carcass to the institution~~
83 ~~for consumption and shall obtain receipts therefor. If no such institution exists within the~~
84 ~~county and there is no cause to question the accidental killing of the deer, the conservation~~
85 ~~ranger may, at his discretion, award the carcass to the person who hit the deer, to be~~
86 ~~possessed and consumed only by the immediate family of such person. Receipts shall be~~
87 ~~acquired for a deer so awarded."~~

88 **SECTION 9.**

89 Said title is further amended in Chapter 3, relating to wildlife generally, by adding a new
90 article to read as follows:

"ARTICLE 8

91

92 27-3-180.

93 The General Assembly recognizes that the hunting and taking of wildlife pursuant to this
 94 title are a valued cultural heritage consistent with the sound scientific principles of wildlife
 95 management and play an essential and effective role in the management of wildlife
 96 populations. The General Assembly further recognizes that the State of Georgia and its
 97 citizens derive substantial economic, recreational, and esthetic benefits from such activities.
 98 Therefore, the General Assembly finds and declares that it is in the public interest to ensure
 99 public health, safety, welfare, and conservation of the state's wildlife resources by strictly
 100 regulating in this state the use of fertility control on any wildlife.

101 27-3-181.

102 (a) As used in this article, the term 'fertility control' means any action that results in
 103 contraception, contragestation, or sterilization or produces a temporary or permanent state
 104 of infertility.

105 (b) It shall be unlawful to apply any fertility control to any wildlife, except in accordance
 106 with a wildlife fertility control permit issued under the provisions of this article and any
 107 rules or regulations adopted by the board.

108 (c) Nothing in this article shall prohibit or apply to the medically necessary treatment of
 109 sick or injured wildlife by properly licensed veterinarians. This article shall not limit
 110 employees of the department in the performance of their official duties.

111 27-3-182.

112 (a) Application for a wildlife fertility control permit shall be made on forms obtained from
 113 the department.

114 (b) The department may issue such a permit only if it has determined that the proposed
 115 activity is in the best interest of the wildlife resources. In making such a determination, the
 116 department may consider the following:

117 (1) Whether the proposed activity may preclude the use of hunting as the primary
 118 management tool;

119 (2) Whether the drug has been approved by the federal Food and Drug Administration;

120 (3) Whether there is a need for the information and data or a need to manage the target
 121 wildlife population to achieve the objectives sought by the applicant;

122 (4) Whether the proposed activity would duplicate sound scientific research previously
 123 accomplished;

124 (5) Whether the proposed activity is of reasonably sound design;

125 (6) Whether the proposed activity poses health or safety risks to humans and wildlife,
126 including, but not limited to, wildlife species that may consume the target wildlife;

127 (7) Whether the proposed activity includes all necessary approvals, including, but not
128 limited to, any federal or state agency approvals for specific or extra label use and any
129 agency or institutional endorsement of the application; and

130 (8) Whether the applicant or the sponsor has documented that he or she has adequate
131 funds available to implement the proposed activity.

132 (c) In the event that a determination has been made to revoke, suspend, deny, or refuse to
133 renew any wildlife fertility control permit issued pursuant to this article, the applicant for
134 such permit may appeal the determination according to the provisions stated in Code
135 Section 27-2-25.

136 27-3-183.

137 The board is authorized to promulgate and adopt any rules and regulations, consistent with
138 sound wildlife management practices and not inconsistent with law, as it deems necessary
139 and appropriate to carry out the purposes of this article.

140 27-3-184.

141 (a) The department shall have the authority to prescribe the form, contents, and conditions
142 for a wildlife fertility control permit and application as it deems necessary to carry out the
143 purposes of this article.

144 (b) The department shall have the authority to issue, revoke, or deny any permit required
145 by this article and pursuant to any rules and regulations adopted pursuant to this article.

146 (c) The department may, prior to a hearing and in accordance with Code Section 27-1-37,
147 issue a cease and desist order or other appropriate order to any person who is violating any
148 provision of this article or any regulation, permit, or license issued pursuant to this article.

149 (d) The department shall have the authority in accordance with Code Sections 27-1-21 and
150 27-1-37 to take possession of and dispose of any wildlife if it has reason to believe that
151 fertility control has been administered to such wildlife in violation of this article.

152 27-3-185.

153 (a) Any person who violates any provision of this article shall be guilty of a misdemeanor
154 of a high and aggravated nature and upon conviction shall be punished by a fine of not less
155 than \$1,500.00 nor more than \$5,000.00, imprisonment for a period not exceeding 12
156 months, or both such fine and imprisonment.

157 (b) Any licenses or permits issued under this title to any person convicted of violating any
 158 provision of this article shall by operation of law be revoked and shall not be reissued for
 159 a period of three years. The department shall notify the person in writing of the revocation."

160 **SECTION 10.**

161 Said title is further amended by revising paragraph (2) of subsection (c) of Code Section
 162 27-4-130.1, relating to open seasons, creel and possession limits, and minimum size limits
 163 for certain finfish species, as follows:

164 "(2) Weakfish All year ~~6~~ 1 13 inches"

165 **SECTION 11.**

166 Chapter 1 of Title 41 of the Official Code of Georgia Annotated, relating to general
 167 provisions relative to nuisances, is amended by adding a new Code section to read as follows:

168 "41-1-10.

169 (a) As used in this Code section, the term 'hunting operation' means an operation including
 170 any of the following:

171 (1) Lands, including the buildings and improvements thereon, which are used or which
 172 are intended for use as a hunting club, hunting preserve, or shooting preserve;

173 (2) Lands, including the buildings and improvements thereon, which are used or which
 174 are intended for use as a kennel, training facility, or field trial facility for the breeding,
 175 showing, raising or training of hunting and sporting dogs; or

176 (3) Clubs, associations, partnerships, sole proprietorships, corporations and other
 177 business and social entities whose activities or holdings include the lands and uses
 178 described in paragraphs (1) and (2) of this subsection.

179 (b) No hunting operation shall be or shall become a nuisance, either public or private,
 180 solely as a result of changed conditions in or around the locality of such hunting operation
 181 if the hunting operation has been in operation for at least one year since the date on which
 182 it commenced activity as a hunting operation. Subsequent physical expansion of the
 183 hunting operation shall not establish a new date of commencement of activity for purposes
 184 of this Code section.

185 (c) No hunting operation shall be subject to any action for civil or criminal liability,
 186 damages, abatement, or injunctive relief resulting from or relating to lawful hunting
 187 activities generated by the hunting operation if the hunting operation remains in
 188 compliance with Title 27 and the rules and regulations adopted by the Board of Natural
 189 Resources pursuant to Title 27.

190 (d) This Code section shall not apply to hunting operations which are conducted in
191 violation of any provision of Title 27 or the rules and regulations adopted by the Board of
192 Natural Resources pursuant to Title 27."

193 **SECTION 12.**

194 This Act shall become effective upon its approval by the Governor or upon its becoming law
195 without such approval.

196 **SECTION 13.**

197 All laws and parts of laws in conflict with this Act are repealed.