

No. 1984-177

AN ACT

SB 1154

Amending the act of June 3, 1937 (P.L.1225, No.316), entitled "An act concerning game and other wild birds and wild animals; and amending, revising, consolidating, and changing the law relating thereto," further providing for unlawful methods of hunting; further providing for killing game and wildlife which destroys property; and providing penalties.

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

Section 1. Section 704(a) of the act of June 3, 1937 (P.L.1225, No.316), known as The Game Law, amended March 22, 1974 (P.L.201, No.41), is amended to read:

Section 704. Unlawful Methods of Hunting.—(a) Unlawful Methods and Devices. It is unlawful for any person to shoot at or to shoot for any wild bird or wild animal unless it is plainly visible to him, or to dig, cut, or smoke or in any other manner take any live wild bird or wild animal, other than a predator, out of its den or place of refuge, except that woodchucks may be dug out of their dens in cultivated fields, under the conditions stipulated in the preceding section.

Except as otherwise provided, it is unlawful to hunt for, catch, take, kill, or wound, or attempt to catch, take, kill, or wound any wild bird or wild animal of any kind through the use of, (a) what is commonly known as an automatic gun or an automatic firearm of any kind, except that semi-automatic shotguns may be used for hunting and killing small game, nongame birds, predators, and unprotected birds; and except that a semi-automatic shotgun may be used for hunting and killing big game by a person having suffered an amputation of one or both hands if the shotgun has been limited to a three-shell capacity in magazine and chamber combined by a plug in such a manner that the plug cannot be removed without disassembling the gun; (b) or a magazine shotgun to hunt for any bird or animal, other than big game, unless it has been limited to three-shell capacity in magazine and chamber combined by a plug in such a manner that the plug cannot be removed without disassembling the gun, or a swivel gun or an air-rifle, or the apparatus known as a silencer; (c) or from an automobile or vehicle or boat or craft of any kind, propelled by any mechanical power; (d) or to set, lay or prepare for use or to use any bait, hay, grain or other food, or any trap, snare, set-gun, net, bird-lime, deer-lick, pit-fall, turkey blind or turkey pen *unless approved by the commission*; the term "set-gun" as herein used meaning any contrivance, device, or firearm capable of discharging, or projecting, a deadly charge or missile, which is set to operate in the absence of the owner; (e) or to make use of, or take advantage of, any artificial light, battery, or other contrivance or device, except that artificial lights such as are ordinarily carried in the hand or on the person, may be used for the purpose

of taking raccoons, opossums, skunks and foxes; (f) or to make use of any method or device not specifically permitted by this act *or by regulation of the commission*, for the purpose of catching, taking, wounding, or killing wild birds or wild animals.

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Section 2. Section 724 of the act, amended March 1, 1974 (P.L.87, No.22) and December 13, 1974 (P.L.927, No.306), is amended to read:

Section 724. **[Killing Game Destroying Property.—(1) Nothing in this act shall be construed to prevent any person, as hereinafter defined and restricted, from killing, in any manner, except through the use of poison, or explosives, or snares, or steel traps, raccoons and woodchucks excepted, any of the animals or birds hereinafter stipulated which he may find actually engaged in the material destruction of cultivated crops, fruit trees, vegetables, livestock, poultry or beehives, or in the case of red squirrels or black-birds destroying either the eggs or young of protected or game birds; or from destroying said animals or birds anywhere on the property under his control immediately following such destruction, or where the presence of said bird or animal on any such cultivated lands or fruit orchards is just cause for reasonable apprehension of additional imminent destruction.**

The word "person" as used in this clause shall mean any person actually residing upon and cultivating, as a means of gaining a livelihood, any lands for general farm crop purposes, commercial trucking, or fruit orchard or nursery being regularly maintained for commercial purposes, as either the owner or lessee of such lands, or a member of his family actually residing upon and regularly assisting in the cultivation thereof, or an employe of such owner or lessee hired on a monthly or annual basis and regularly assisting in the cultivation thereof, and where such owner or lessee shall, upon request of any representative of the commission, produce satisfactory evidence that material damage has been done within fifteen (15) days prior to date of such killing and that there was just cause for reasonable apprehension of additional imminent destruction, provided that no saltlick, bait, or other artificial means have been used to lure said animals or birds onto such lands.

(2) Any elk, deer, or bear may be legally killed only through the use of a firearm which discharges a single ball or bullet other than one fired from a twenty-five or less calibre rimfire cartridge, under the foregoing provisions, provided a report is made as hereinafter required and other conditions stipulated are complied with; and

(3) Any game bird or game animal may be legally killed under the foregoing provisions, provided a report is made as hereinafter required and other conditions stipulated are complied with.

(4) The provisions of this section shall be construed to permit the killing of any game bird or game animal upon detached lands being cultivated for like purposes in common with lands upon which the actual residence of the operator is maintained, provided the killing thereof is reported and the carcasses are cared for as stipulated in subsection (5) of this section, but no such game birds or game animals killed on any land upon which the general public is prohibited from hunting or any such detached land shall be retained for food.

(5) The person killing any such game animal or game bird, except woodchucks, raccoons, red squirrels and the birds commonly known as blackbirds, shall within twelve (12) hours after killing, either orally or in writing, report such killing to the nearest game protector or the office of the commission at Harrisburg, setting forth the date and time of killing, the species killed, and the sex thereof, and shall immediately after killing remove the entrails and transfer the carcass to a place of safekeeping to be turned over to any representative of the commission upon demand, except as otherwise provided in subsection (6) of this section.

(6) One elk, or deer, or bear legally killed under authority of this section, and reported in accordance with the provisions of subsection (5) of this section, may be retained for food, provided such animal was killed upon lands where such person resides and that such lands are open to public hunting. All portions of the carcass generally considered edible shall be consumed only within the household of a person residing upon such lands and having a legal right to kill the same. The hide and head of any such animal so killed shall immediately be surrendered to any representative of the commission upon demand. No additional animals shall be retained for food until the entire carcass of the animal previously retained has been entirely consumed under the foregoing provisions. Any additional elk, or deer, or bear legally killed under the provisions of this section, so long as there is any unconsumed or edible portion of an elk, or a deer, or a bear retained within the household of any person legally entitled to possess the same under the provisions of this section, shall be turned over to a representative of the commission as hereinbefore specified.

(7) It shall be unlawful for any person legally entitled to kill game birds and game animals under the provisions of this section to barter, exchange or give away any such game birds or game animals so killed, or any part thereof; or to cause or permit any such elk, or deer, or bear killed and retained for food, or any part thereof, to be disposed of in any manner except as provided in subsection (6) of this section; or to fail or refuse to report the killing of any game bird or game animal within the specified period of time; or to fail or refuse to remove the entrails and properly care for the carcass of any game animal or game bird so killed as required under the provisions of subsection (5) of this section; or to fail or refuse to immediately surrender the carcass of any such game birds or game animals upon demand of any representative of the commission which may not legally be retained for human consumption under any circumstances or when such game birds or game animals are killed on any lands which the general public is prohibited from hunting thereon, or when killed upon detached lands; or to kill a deer or elk at any time within the area enclosed with fencing supplied by the commission under provisions of section 1301 of this act.

Any person violating any of the several provisions of this section shall be liable for the fines hereinafter provided.] *Killing Game and Wildlife to Protect Property.*—(a) *Subject to the limitations of this section and sections 724.1, 724.2, 724.3, 724.4 and 724.5, nothing in this act shall be construed to prevent any person from killing, in a manner approved by the com-*

mission, game and wildlife, except migratory birds specified in 50 CFR 10, which the person observes actually engaging in the material destruction of cultivated crops, fruit trees, vegetables, livestock, poultry or beehives or from destroying the wildlife anywhere on the property under the person's control, including detached lands being cultivated for the same or similar purposes, immediately following such destruction, or where the presence of the game or wildlife on any cultivated lands or fruit orchards is just cause for reasonable apprehension of additional imminent destruction. Lands divided by a public highway shall not be construed as detached lands. Any person who wounds any game or wildlife shall immediately make a reasonable effort to find and kill the game or wildlife. Every person shall comply with all other provisions in this act pertaining to the method and manner of killing, reporting the killing and the disposition of game and wildlife and their skins and carcasses.

(b) Before any game or wildlife, which may be designated by resolution of the commission, or any bird or animal classified as threatened or endangered, may be killed, every effort shall be made to live trap and transfer such game or wildlife. The trapping and transfer shall be done in cooperation with a representative of the commission.

(c) As used in this section and sections 724.1 through 724.5, the term "person" shall be limited to any person cultivating, as a primary means of gaining a livelihood, any lands for general or specialized crop purposes, truck farming or fruit orchard or nursery being regularly maintained, as either the owner or lessee, or a member of the family of the owner or lessee residing on or assisting in the cultivation of the owner's or lessee's land, or a domiciled member of the owner's or lessee's household, or an employe of the owner or lessee, regularly and continuously assisting in the cultivation of the land.

Section 3. The act is amended by adding sections to read:

Section 724.1. Report to Commission Officer.—Any person who kills any protected game or wildlife, except raccoons, under the provisions of section 724 shall, within twelve hours, report the killing to an officer of the commission. The report shall set forth the date, time and place of the killing, the number of species killed and the sex of the species.

Section 724.2. Safekeeping Edible Carcass Pending Disposition.—Except for the complete removal of the entrails, the entire carcass, intact, of each edible bird or animal killed under the provisions of section 724 shall be held in a place of safekeeping pending final disposition pursuant to this act.

Section 724.3. Retention of Edible Carcass for Food.—(a) Except as otherwise provided in subsection (b), the carcass of one deer, bear or elk killed under the provisions of section 724 may be retained for food. All portions of the carcass generally considered edible shall be consumed only within the household of a person having the authority to kill and possess the game or wildlife. No additional animals may be retained for food until the entire carcass of the animal previously retained has been entirely consumed. The head and hide of each deer, bear or elk killed and retained for food shall be properly salted, placed in safekeeping and turned over to a commission officer.

(b) No carcass, or any part or parts thereof, of any deer, bear or elk shall be retained for food by any person if the animal was killed upon:

(1) Land within a game or wildlife deterrent fence provided by the commission.

(2) Land, or any part thereof, on which trespass for hunting purposes is denied at any time.

Section 724.4. Surrender of Carcass to Commission Officer.—Except as otherwise provided in this act, the entire carcass, including the head and hide, of all big game animals and the entire carcass of any other protected game or wildlife, except raccoons, shall be delivered, intact, except for the complete removal of the entrails, to any commission officer calling for them.

Section 724.5. Unlawful Activities.—(a) It is unlawful for any person, while acting under the provisions of this act, to:

(1) Place any salt, bait or food of any kind or quantity, or use any artificial means, for the purpose of attracting or luring any game or wildlife upon any lands.

(2) Use any poison, chemical or explosives, except that traps may be used to take furbearers and groundhogs.

(3) Use any firearm except a center fire propelling a single all lead, lead alloy or expanding bullet or ball to kill or attempt to kill any big game animal.

(4) Fail or neglect to report the killing of any protected game or wildlife other than raccoons.

(5) Fail or neglect to care for the carcass, or any part thereof, of any protected game or wildlife other than raccoons.

(6) Fail to produce satisfactory evidence that material damage was done within the preceding fifteen days and that there was just cause for reasonable apprehension of additional imminent destruction.

(7) Fail to relinquish to any officer the entire carcass of any protected game or wildlife, other than raccoons, killed to which the person killing the wildlife is not legally entitled thereto.

(b) A person violating a provision of this section or of section 724, 724.1, 724.2, 724.3 or 724.4 shall be liable for the fines provided in section 731.

Section 4. This act shall take effect in 60 days.

APPROVED—The 11th day of October, A. D. 1984.

DICK THORNBURGH