

## No. 1990-170

## AN ACT

## SB 647

Amending Title 34 (Game) of the Pennsylvania Consolidated Statutes, providing for the use of a portion of the antlerless deer fee; further providing for the construction of deterrent fencing; increasing the monetary cap on deterrent fencing; providing for licenses and for license and agent fees; and further providing for control and utilization of commission land and resources and for the authorized license-issuing agents.

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

Section 1. Sections 521(b), 543, 546, 721 and 2705 of Title 34 of the Pennsylvania Consolidated Statutes are amended to read:

§ 521. Establishment and use of Game Fund.

\* \* \*

(b) Specific allocation of certain revenues.—The following sums of money are specifically allocated for the following purposes:

(1) A minimum of \$1.25 from each resident license for which the full fee has been paid shall be used solely for habitat improvement and restoration conducive to increasing natural propagation of game or wildlife on all lands under the control or operation of the commission or on lands open to public hunting.

(2) A minimum of \$2.00 of the fee collected for the issuance of antlerless deer licenses shall be used solely for cutting or otherwise removing overshadowing tree growth to produce underbrush, sprouts and saplings for deer food and cover on *[state game lands] lands under the control or operation of the commission, including lands enrolled in commission public access programs.*

§ 543. Purchase of materials and construction.

*[(a) General rule.—The commission may purchase and deliver to the applicant or applicants the required amount of wire fencing, staples, insulators, posts or other materials necessary to construct a deer, elk or bear deterrent fence approved by the commission provided the applicant or applicants have agreed, in writing, to construct the fence without cost to the commission within six months from the day the fencing and other materials are delivered, in the case of a deer or elk deterrent fence, or within seven days from the day the fencing and other materials are delivered, in the case of a bear deterrent fence. In case the fence is not completed within the stipulated time, the commission may recover the materials it furnished at such time and in such manner as desired or found practical. All fences shall be constructed in accordance with plans and instructions supplied and approved by the commission.]*

(b) Reimbursement of applicant for materials.—The commission may, through prior written agreement with the applicant, pay the applicant for

any or all materials necessary to construct a deterrent fence within the time limitations set forth in subsection (a).]

(a) *Purchase and delivery of materials.*—*The commission may purchase and deliver to the appropriate sites the required amount of wire fencing, staples, insulators, posts or other material necessary to construct a deer, elk or bear deterrent fence approved by the commission.*

(b) *Construction of deer or elk deterrent fences.*—

(1) *The commission may construct, or may enter into contracts for the construction of, or enter into a written agreement with the applicant for the construction of, deer or elk deterrent fences on sites approved by the commission.*

(2) *In making application for a deterrent fence under the provisions of this subsection, the applicant shall agree to one of the following three fence construction options:*

(i) *The commission may construct, or may contract for the construction of, the deterrent fence.*

(ii) *The applicant may, within six months of delivery of materials, construct the deterrent fence.*

(iii) *The applicant may contract with a third party for the construction of the deterrent fence.*

(3) *After any deterrent fence is constructed and approved by the commission under the option specified in paragraph (2)(i), the commission shall pay for the cost of installation, and the landowner or lessee shall then reimburse the commission for 50% of the cost of installation.*

(c) *Construction of bear deterrent fences.*—*Prior to delivery under subsection (a), an applicant for a bear deterrent fence shall have agreed, in writing, with the commission to construct the bear deterrent fence without cost to the commission and to complete construction of the bear deterrent fence within seven days from the date the material is delivered to the site. In case the bear deterrent fence is not completed within the stipulated time, the commission may recover the materials it furnished at such time and in such manner as desired or found practical.*

(d) *Specifications.*—*All deterrent fences shall be constructed and installed in accordance with plans and instructions supplied and approved by the commission.*

(e) *Reimbursement of applicant for materials.*—*The commission may, through prior written agreement with the applicant, pay the applicant for any or all materials necessary to construct a deterrent fence within the time limitations set forth in this section.*

§ 546. Limitation on expenditures for deterrent fencing.

(a) *General rule.*—*Except as provided in subsection (b), the director shall not spend in excess of [\$100,000] \$300,000 annually from the Game Fund for [the purchase of fencing and other materials necessary for the erection of] deer, elk or bear deterrent fences in accordance with the provisions of this subchapter.*

(b) *Commercial forest lands.*—*The director shall not spend in excess of [\$100,000] \$300,000 annually from the Game Fund for [the purchase of*

fencing or other materials necessary for the erection of] deer or elk deterrent fences on commercial forest lands to promote and protect the regeneration of forest flora in accordance with the provisions of this subchapter. For purposes of this subsection the phrase "commercial forest lands" shall mean land which is owned or leased by an individual, corporation or association, operated on a profit-making basis and meets all of the following requirements:

- (1) The land shall consist of a minimum of 1,000 acres.
- (2) The land is managed for the production or utilization of forest products on a sustained yield basis as defined by regulation of the commission.
- (3) The land is open to public hunting.

§ 721. Control of property.

(a) General rule.—The administration of all lands or waters owned, leased or otherwise controlled by the commission shall be under the sole control of the director, and the commission shall promulgate regulations consistent with the purpose of this title for its use and protection as necessary to properly manage these lands or waters. *The acquisition, use and management of such lands or waters owned, leased or otherwise controlled by the commission, including timber cutting and crop cultivation, shall not be subject to regulation by counties or municipalities.*

(b) Penalty.—A violation of regulations promulgated under subsection (a) is a summary offense of the fifth degree.

§ 2705. Classes of licenses.

Unless otherwise provided, any person wishing to exercise any of the privileges granted by this title shall first secure the applicable resident or nonresident hunting or [furtaking] *furtaker* license as follows:

(1) Adult resident hunting licenses to residents who have reached their 17th birthday but have not reached their 65th birthday.

(2) Junior resident hunting licenses to residents who have reached their 12th birthday but who have not reached their 17th birthday prior to the date of the application for the license and who present a written request, bearing the signature of a parent or guardian, for the issuance of a license.

(3) Senior resident hunting licenses or, at the option of the applicant, a senior lifetime resident hunting license to residents who have reached their 65th birthday prior to the date of the application for the license. The commission shall develop, implement and administer a system to provide tags, report cards and applications to those residents who hold a senior lifetime resident hunting license issued under this paragraph. The system shall require the applicant or license holder to pay any approved fee assessed by the issuing agent.

(4) Adult resident [furtaking] *furtaker* licenses to residents who have reached their 17th birthday but have not reached their 65th birthday.

(5) Junior resident [furtaking] *furtaker* licenses to residents who have reached their 12th birthday but who have not reached their 17th birthday prior to the date of the application for the license and who present a

written request, containing the signature of a parent or guardian, for the issuance of a license.

(6) Senior resident **[furtaking] furtaker** licenses or, at the option of the applicant, a senior lifetime resident **[furtaking] furtaker** license to residents who have reached their 65th birthday prior to the date of the application for the license.

(7) **[Three-day regulated hunting grounds licenses to persons eligible to procure a hunting license. The license shall be valid for a period of three consecutive days, Sundays excluded, and shall entitle the licensee to hunt, take or kill game or wildlife which may be legally hunted, taken or killed upon the grounds under a regulated hunting grounds permit.] (Reserved).**

(8) Adult nonresident hunting licenses to all nonresidents of 17 years of age or older.

(9) Junior nonresident hunting licenses to all nonresidents who have reached their 12th birthday but who have not reached their 17th birthday prior to the date of the application for the license and who present a written request, bearing the signature of a parent or guardian, for the issuance of a license.

(10) Adult nonresident **[furtaking] furtaker** licenses to nonresidents of 17 years of age or older.

(11) Junior nonresident **[furtaking] furtaker** licenses to nonresidents who have reached their 12th birthday but who have not reached their 17th birthday prior to the date of the application for the license and who present a written request, containing the signature of a parent or guardian, for the issuance of a license.

(12) **[Five-day] Seven-day** nonresident small game license to persons eligible to procure a nonresident hunting license. The license shall be valid for a period of **[five] seven** consecutive days. The holder of the license shall be entitled to hunt for, take or kill crows **[or] and** small game.

(13) Antlerless deer licenses, bear licenses, archery licenses, **[muzzle-loader] muzzleloader** licenses and any other license required to insure just and proper administration of this title and sound game or wildlife conservation to eligible persons, subject to the regulations, requirements and conditions which the commission shall establish. Any such license shall be made available to residents serving on active duty in the armed forces of the United States or in the United States Coast Guard without regard to quota limitations or application deadlines. **[The number of bear licenses which shall be made available to nonresidents shall not exceed 3% of the total number of bear licenses to be issued by the commission.]**

Section 2. Section 2706 of Title 34 is amended by adding a subsection to read:

§ 2706. Resident license and fee exemptions.

\* \* \*

*(d) Owners or possessors of land open to public hunting.—A resident owner or possessor of land, comprising greater than 80 contiguous acres farmed under a conservation plan which does not conflict with the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law, and*

*which meets the requirements of 25 Pa. Code Ch. 102 (relating to erosion control), shall, if he permits public hunting as evidenced by enrollment in a Cooperative Public Access Program, be entitled to purchase a Landowners Hunting License at the cost of \$3 plus the current issuing fee. The 80-acre requirement shall be exclusive of safety zones in excess of 20% of the total acreage. The license shall be issued to the owner or possessor or an immediate family member of either the owner or possessor living in the same household so designated by the owner or possessor in the case of a single owner or possessor and to the individual so designated in the case of more than one owner or possessor. No person shall be issued a hunting license under this subsection unless the person is 12 years of age or older, has met the requirements prescribed in section 2704 and has not been denied the privilege to hunt. A person entitled to receive a hunting license under this subsection shall certify to the commission in the form and manner prescribed by the commission that the land tract he owns or possesses is presently in his ownership or possession.*

Section 3. Sections 2709 and 2722 of Title 34 are amended to read:

§ 2709. License costs and fees.

(a) License costs.—Any person who qualifies under the provisions of this chapter shall be issued the applicable license upon payment of the following costs and the issuing agent's fee:

- (1) Junior resident hunting - \$5.
- (2) Adult resident hunting - \$12.
- (3) (i) Senior resident hunting - \$10.  
(ii) Senior lifetime resident hunting - \$50.
- (4) Bear hunting:
  - (i) Resident - \$10.
  - (ii) Nonresident - \$25.
- (5) Antlerless deer, including resident military, resident disabled veteran and landowner - \$5.
- (6) Archery deer - \$5.
- (7) Muzzleloader deer - \$5.
- [(8) Three-day regulated shooting grounds - \$3.]
- (9) Adult nonresident hunting - \$80.
- (10) Junior nonresident hunting - \$40.
- (11) [Five-day] Seven-day nonresident small game - \$15.
- (12) Junior resident furtakers - \$5.
- (13) Adult resident furtakers - \$12.
- (14) (i) Senior resident furtakers - \$10.  
(ii) Senior lifetime resident [furtaking] furtaker - \$50.
- (15) Adult nonresident [furtakers] furtaker - \$80.
- (16) Junior nonresident [furtaking] furtaker - \$40.
- (17) Resident disabled veteran hunting or [furtaking] furtaker under section 2706(b) (relating to disabled veterans) - no cost.
- (18) Replacement license - \$5. Antlerless deer and bear licenses shall be replaced by the original issuing agent only.

**(19) Owners or possessors of land open to public hunting under section 2706(d) (relating to owners or possessors of land open to public hunting) - \$3.**

(b) Refunds.—Except as provided in section 501 (relating to refund of moneys paid erroneously or unjustly), license fees are not refundable.

(c) Agent fee.—Issuing agents shall be entitled to and may retain *as full compensation for their services* an additional sum [not exceeding the amount specified in paragraph (1) or (2)] of 75¢ for each license or replacement license [issued as full compensation for their services. The amount retained shall be:

(1) Seventy-five cents for licenses and replacements issued under subsection (a)(1), (2), (3), (9), (10), (12), (13), (14), (15), (16) and (18).

(2) Fifty cents for all other licenses.

The fee for the agent shall be in addition to the cost of the license prescribed in subsection (a)].

§ 2722. Authorized license-issuing agents.

(a) County treasurer and commission employees.—Each county treasurer [or person acting on behalf of the county treasurer and any employee at each commission headquarters or other commission facilities designated by the commission may] or, *in home rule or optional plan counties, the person whose duties encompass those of a county treasurer, whose agency has not been recalled under this title, shall* accept applications and issue licenses [unless otherwise restricted by this title or the director] *in accordance with this title. The director may also designate commission employees at commission facilities to issue licenses.*

(b) Agents for issuing antlerless deer licenses.—Antlerless deer licenses shall be issued by the county treasurer [or some person acting on behalf of the county treasurer] or, *in home rule or optional plan counties, the person whose duties encompass those of a county treasurer* within the county in which the licenses are valid.

(c) Agent for issuing bear and nonresident furtaker licenses.—Bear and nonresident furtaker licenses shall be issued only by the commission or by authorized license-issuing agents designated by the director.

(d) Appointment of additional agents.—The commission may appoint such number of qualified persons, with similar authority, as it deems necessary for the efficient distribution of licenses required by this title.

(e) Agent responsible for employees.—The authorized agent shall be solely responsible for each person acting under his direction.

(f) Recall of appointment or authority.—The director may recall the appointment or authority of any county treasurer or other agent at any time.

(g) Regulations.—The commission shall adopt regulations for:

(1) The appointment of hunting or [furtaking] *furtaker* license-issuing agents and shall establish the appropriate administrative fee for creating and maintaining these issuing agents. County treasurers shall be exempt from the payment of any administrative fee established by the commission.

(2) The administration, control and performance of activities conducted pursuant to the provisions of this chapter.

Section 4. This act shall take effect as follows:

(1) Sections 2 (relating to section 2706) and 3 (relating to section 2709(c)) shall take effect July 1, 1991.

(2) The remainder of this act shall take effect July 1, 1990, or immediately, whichever is later.

APPROVED—The 17th day of December, A. D. 1990.

ROBERT P. CASEY