State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HB 2396

Introduced by
Representative Jones

AN ACT

AMENDING SECTIONS 17-101, 17-309 AND 17-340, ARIZONA REVISED STATUTES; RELATING TO WILDLIFE.

(TEXT OF BILL Begins ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 17-101, Arizona Revised Statutes, is amended to read:

17-101. Definitions
A. In this title, unless the context otherwise requires:
1. "Angling" means the taking of fish by one line and not to exceed two hooks, by one line and one artificial lure, which may have attached more than one hook, or by one line and not to exceed two artificial flies or lures.
2. "Bag limit" means the maximum limit, in number or amount, of wildlife which may lawfully be taken by any one person during a specified period of time.
3. "Closed season" means the time during which wildlife may not be lawfully taken.
5. "Department" means the Arizona game and fish department.
6. "Device" means any net, trap, snare, salt lick, scaffold, deadfall, pit, explosive, poison or stupefying substance, crossbow, firearm, bow and arrow, or other implement used for taking wildlife. Device does not include a raptor or any equipment used in the sport of falconry.
7. "Falconry" means the sport of hunting or taking quarry with a trained raptor.
8. "Fishing" means to lure, attract or pursue aquatic wildlife in such a manner that the wildlife may be captured or killed.
9. "Fur dealer" means any person engaged in the business of buying for resale the raw pelts or furs of wild mammals.
10. "Guide" means a person who, for pay, aids or assists any person in taking wildlife.
11. "License year" means the twelve-month period between January 1 and December 31, inclusive.
12. "Nonresident" means a citizen of the United States or an alien who has not been a bona fide resident of the state of Arizona for six months immediately preceding the date of application for a license.
13. "Open season" means the time during which wildlife may be lawfully taken.
14. "Possession limit" means the maximum limit, in number or amount of wildlife, which may be possessed at one time by any one person.
15. "Resident" means a person who has been a bona fide resident of the state of Arizona for six months immediately preceding the date of application for a license, or a member of the armed forces who has been stationed in Arizona for a period of thirty days immediately preceding the date of application for a license.
16. "Road" means any maintained right-of-way for public conveyance.
17. "Statewide" means all lands except those areas lying within the boundaries of state and federal refuges, parks and monuments, unless specifically provided differently by commission order.

18. "Take" means pursuing, shooting, hunting, fishing, trapping, killing, capturing, snaring or netting wildlife or the placing or using of any net or other device or trap in a manner that may result in the capturing or killing of wildlife.

19. "Taxidermist" means any person who engages for hire in the mounting, refurbishing, maintaining, restoring or preserving of any display specimen.

20. "Traps" or "trapping" means taking wildlife in any manner except with a gun or other implement in hand.

21. "Wild" means, in reference to mammals and birds, those species which are normally found in a state of nature.

22. "Wildlife" means all wild mammals, wild birds and the nests or eggs thereof, reptiles, amphibians, mollusks, crustaceans, and fish, including their eggs or spawn.

23. "Zoo" means a commercial facility open to the public where the principal business is holding wildlife in captivity for exhibition purposes.

B. The following definitions of wildlife shall apply:

1. Aquatic wildlife are all fish, amphibians, mollusks, crustaceans and soft-shelled turtles.

2. Game mammals are deer, elk, bear, pronghorn (antelope), bighorn sheep, bison (buffalo), peccary (javelina), mountain lion, tree squirrel and cottontail rabbit.

3. Big game are wild turkey, deer, elk, pronghorn (antelope), bighorn sheep, bison (buffalo), peccary (javelina), bear and mountain lion.

4. "Trophy" means THE FOLLOWING USING A NATIONALLY OR INTERNATIONALLY RECOGNIZED MEASURING SYSTEM:
   
   (a) A mule deer buck with at least four points on one antler MEASURING AT LEAST ONE HUNDRED FORTY-FIVE INCHES, not including the eye-guard point.

   (b) A COUE'S DEER BUCK WITH ANTLERS MEASURING AT LEAST SIXTY-FIVE INCHES, NOT INCLUDING THE EYE-GUARD POINT.

   (c) A whitetail deer buck with at least three points on one antler ANTLERS MEASURING AT LEAST ONE HUNDRED TWENTY-FIVE INCHES, not including the eye-guard point.

   (d) A bull elk with at least six points on one antler ANTLERS MEASURING AT LEAST TWO HUNDRED SIXTY INCHES, including the eye-guard point and the brow tine point.

   (e) A pronghorn (antelope) buck with at least one horn exceeding or equal to fourteen inches in total length MEASURING AT LEAST SIXTY-SEVEN INCHES.

   (f) Any bighorn sheep.

   (g) Any bison (buffalo).
5. Small game are cottontail rabbits, tree squirrels, upland game birds and migratory game birds.

6. Fur-bearing animals are muskrats, raccoons, otters, weasels, bobcats, beavers, badgers and ringtail cats.

7. Predatory animals are foxes, skunks, coyotes and bobcats.

8. Nongame animals are all wildlife except game mammals, game birds, fur-bearing animals, predatory animals and aquatic wildlife.

9. Upland game birds are quail, partridge, grouse and pheasants.

10. Migratory game birds are wild waterfowl, including ducks, geese and swans; sandhill cranes; all coots, all gallinules, common snipe, wild doves and bandtail pigeons.

11. Nongame birds are all birds except upland game birds and migratory game birds.

12. Raptors are birds that are members of the order of falconiformes or strigiformes and include falcons, hawks, owls, eagles and other birds that the commission may classify as raptors.

13. Game fish are trout of all species, bass of all species, catfish of all species, sunfish of all species, northern pike, walleye and yellow perch.

14. Nongame fish are all the species of fish except game fish.

15. Trout means all species of the family salmonidae, including grayling.

Sec. 2. Section 17-309, Arizona Revised Statutes, is amended to read:

17-309. Violations; classification

A. Unless otherwise prescribed by this title, it is unlawful for a person to:

1. Violate any provision of this title or any rule adopted pursuant to this title.

2. Take, possess, transport, buy, sell or offer or expose for sale wildlife except as expressly permitted by this title.

3. Destroy, injure or molest livestock, growing crops, personal property, notices or signboards, or other improvements while hunting, trapping or fishing.

4. Discharge a firearm while taking wildlife within one-fourth mile of an occupied farmhouse or other residence, cabin, lodge or building without permission of the owner or resident.

5. Take a game bird, game mammal or game fish and knowingly permit an edible portion thereof to go to waste, except as provided in section 17-302.

6. Take big game, except bear or mountain lion, with the aid of dogs.

7. Make more than one use of a shipping permit or coupon issued by the commission.

8. Obtain a license or take wildlife during the period for which the person's license has been revoked or suspended or the person has been denied a license.

9. Litter hunting and fishing areas while taking wildlife.
10. Possess while hunting any contrivance designed to silence, muffle or minimize the report of a firearm.
11. Take wildlife during the closed season.
12. Take wildlife in an area closed to the taking of that wildlife.
13. Take wildlife with an unlawful device.
14. Take wildlife by an unlawful method.
15. Take wildlife in excess of the bag limit.
16. Possess wildlife in excess of the possession limit.
17. Possess or transport any wildlife or parts of the wildlife which was unlawfully taken.
18. Possess or transport the carcass of big game without a valid tag being attached.
19. Use the edible parts of any game mammal or any part of any game bird or nongame bird as bait.
20. Possess or transport the carcass or parts of a carcass of any wildlife which THAT cannot be identified as to species and legality.
21. Take game animals, game birds and game fish with an explosive compound, poison or any other deleterious substances.
22. Import into this state or export from this state the carcass or parts of a carcass of any wildlife unlawfully taken or possessed.

B. Unless a different or other penalty or punishment is specifically prescribed a person who violates any provision of this title, or who violates or fails to comply with a lawful order or rule of the commission, is guilty of a class 2 misdemeanor.

C. A person who knowingly takes any big game during a closed season or who knowingly possesses, transports or buys any big game which was unlawfully taken during a closed season is guilty of a class 1 misdemeanor.

D. A person is guilty of a class 6 felony who knowingly:
1. UNLAWFULLY TAKES OR POSSESSES A TROPHY ANIMAL OR ENDANGERED WILDLIFE.
2. Barters, sells or offers for sale any big game or parts of big game taken unlawfully.
3. Barters, sells or offers for sale any wildlife or parts of wildlife unlawfully taken during a closed season.
4. Barters, sells or offers for sale any wildlife or parts of wildlife imported or purchased in violation of this title or a lawful rule of the commission.
5. Assists another person for monetary gain with the unlawful taking of big game.
6. Takes or possesses wildlife while under permanent revocation under section 17-340, subsection B, PARAGRAPH 3.

E. A peace officer who knowingly fails to enforce a lawful rule of the commission or this title is guilty of a class 2 misdemeanor.
Sec. 3. Section 17-340, Arizona Revised Statutes, is amended to read:

17-340. Revocation, suspension and denial of privilege of taking wildlife; notice; violation; classification

A. Upon conviction or after adjudication as a delinquent juvenile as defined in section 8-201 and in addition to other penalties prescribed by this title, the commission, after a public hearing, may revoke or suspend a license issued to any person under this title and deny the person the right to secure another license to take or possess wildlife for a period of not to exceed five years for:

1. Unlawful taking, unlawful selling, unlawful offering for sale, unlawful bartering or unlawful possession of wildlife.
2. Careless use of firearms which has resulted in the injury or death of any person.
3. Destroying, injuring or molesting livestock, or damaging or destroying growing crops, personal property, notices or signboards, or other improvements while hunting, trapping or fishing.
4. Littering public hunting or fishing areas while taking wildlife.
5. Knowingly allowing another person to use the person's big game tag, except as provided by section 17-332, subsection D.
6. A violation of section 17-303, 17-304 or 17-341.
7. A violation of section 17-309, subsection A, paragraph 1 involving any unlawful use of aircraft to take, assist in taking, harass, chase, drive, locate or assist in locating wildlife.

B. On conviction or after adjudication as a delinquent juvenile and in addition to any other penalties prescribed by this title:

1. For a first conviction or a first adjudication as a delinquent juvenile, for unlawfully taking or wounding wildlife at any time or place, the commission, after a public hearing, may revoke, suspend or deny a person's privilege to take wildlife for a period of up to five years.
2. For a second conviction or a second adjudication as a delinquent juvenile, for unlawfully taking or wounding wildlife at any time or place, the commission, after a public hearing, may revoke, suspend or deny a person's privilege to take wildlife for a period of up to ten years.
3. For a third conviction or a third adjudication as a delinquent juvenile, for unlawfully taking or wounding wildlife at any time or place, the commission, after a public hearing, may revoke, suspend or deny a person's privilege to take wildlife permanently.

C. In accordance with title 41, chapter 6, article 10 and notwithstanding subsection A of this section, any person who is assessed civil damages under section 17-314 for the unlawful taking or possession of wildlife may SHALL be denied the right to secure a license to take wildlife until damages have been paid in full.

D. On receiving a report from the licensing authority of a state which is a party to the wildlife violator compact, adopted under chapter 5 of this title, that a resident of this state has failed to comply with the terms of a
wildlife citation, the commission, after a public hearing, may suspend any license issued under this title to take wildlife until the licensing authority furnishes satisfactory evidence of compliance with the terms of the wildlife citation.

E. In carrying out the provisions of this section the director shall notify the licensee, within one hundred eighty days after conviction, to appear and show cause why the license should not be revoked, suspended or denied. The notice may be served personally or by certified mail sent to the address appearing on the license.

F. The commission shall furnish to license dealers the names and addresses of persons whose licenses have been revoked or suspended, and the periods for which they have been denied the right to secure licenses.

G. The commission may use the services of the office of administrative hearings to conduct hearings and to make recommendations to the commission pursuant to this section.

H. Except for a person who takes or possesses wildlife while under permanent revocation, a person who takes wildlife in this state, or attempts to obtain a license to take wildlife, at a time when the person's privilege to do so is suspended, revoked or denied under this section is guilty of a class 1 misdemeanor.