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SENATE FILE 1172

By COMMITTEE ON CONSERVATION
AND RECREATION

Passed Senate, Date 3-8-72 Passed House, Date 3-13-72
Vote: Ayes 41 Nays 2 Vote: Ayes 90 Nays 0
Approved March 17, 1972

A BILL FOR

1 An Act relating to the authority of the state conservation
2 commission and providing a penalty.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 Section 1. Section one hundred nine point one (109.1),
2 Code 1971, is amended by adding the following new subsection:

3 "'Commission' means the state conservation commission."

4 Sec. 2. Section one hundred nine point four (109.4), Code
5 1971, is amended to read as follows:

6 109.4 FISH HATCHERIES--GAME FARMS. The ~~state-conserva-~~
7 ~~tion-director-shall-have-the-right-to~~ commission may estab-
8 lish and control the state hatcheries and game farms, which
9 shall be used for the purpose of stocking the waters of the
10 state with fish and the natural covers with game birds to
11 the extent of the means provided for that purpose; and
12 impartially and equitably distribute all birds, eggs, and
13 fry raised by or furnished to the state, or for it through
14 other sources, in the streams, lakes, and natural covers of
15 the state.

16 Sec. 3. Section one hundred nine point five (109.5), Code
17 1971, is amended by striking the section and inserting in
18 lieu thereof the following new section:

19 109.5 STATE GAME REFUGES.

20 1. The commission may establish state game refuges or
21 sanctuaries on any land owned by the state of Iowa suitable
22 for this purpose when necessary for the preservation of bio-
23 logical balance pursuant to the provisions of section one
24 hundred nine point thirty-nine (109.39) of the Code, for the
25 protection of public parks, for the protection of the public
26 health, safety and welfare, or to effect sound wildlife man-
27 agement.

28 2. In emergency situations when the maintenance of the
29 biological balance as provided in section one hundred nine
30 point thirty-nine (109.39) of the Code is threatened, the
31 director may establish temporary state game refuges in con-
32 formity with sound wildlife management. The establishment
33 of a temporary refuge shall be accomplished by posting notices
34 in conspicuous places around the refuge. The establishment
35 of a temporary refuge by the director shall be effective until

1 five days after the next meeting of the commission or for
2 such longer time as the commission may determine is necessary
3 to maintain a biological balance as provided in section one
4 hundred nine point thirty-nine (109.39) of the Code and to
5 effect sound wildlife management.

6 Sec. 4. Section one hundred nine point six (109.6), Code
7 1971, is amended to read as follows:

8 109.6 GAME MANAGEMENT AREA. ~~Whenever-the~~ The commis-
9 sion ~~shall~~ may establish ~~and-create~~ a game management area
10 upon any public lands or waters, or with the consent of the
11 owner thereof upon any private lands or waters, ~~it~~ when
12 necessary to maintain a biological balance as provided in
13 section 109.39 or to provide for public hunting, fishing,
14 or trapping in conformity with sound wildlife management;
15 and when a game management area is established, the commission
16 shall with the consent of such owner, if any, have the right
17 to post and prohibit, and to regulate or limit such lands
18 or waters against trespassing, and/or-against hunting, fishing,
19 or trapping, and any violation thereof shall be unlawful and
20 punishable as provided in section 109.32.

21 Sec. 5. Section one hundred nine point seven (109.7),
22 unnumbered paragraph two (2), Code 1971, is amended to read
23 as follows:

24 ~~The director-shall-have-the-authority-to~~ commission may
25 specify the distance from a state game refuge where shooting
26 ~~may-be~~ is prohibited, and shall have notice of same ~~published~~
27 ~~in-one-newspaper-in-the-county-so-affected~~ posted at such
28 distance in conspicuous places around the refuge, provided,
29 however, this prohibition shall not apply to owners or tenants
30 hunting on their own land outside of a state game refuge.
31 The commission may prohibit shooting at any reasonable distance
32 from a state game refuge deemed necessary to accomplish the
33 purposes for which the refuge is established.

34 Sec. 6. Section one hundred nine point eight (109.8),
35 Code 1971, is amended to read as follows:

1 109.8 NOTICE OF ESTABLISHMENT. ~~Whenever~~ When any such
2 refuge or preserve is established by the ~~director, he~~
3 ~~commission, it shall publish one notice of such establish-~~
4 ~~ment in an official newspaper in the county in which the~~
5 ~~refuge is located and shall~~ post notices of such establish-
6 ment in conspicuous places around the said refuge.

7 Sec. 7. Section one hundred nine point nine (109.9), Code
8 1971, is amended to read as follows:

9 109.9 SPAWNING GROUNDS. ~~The director shall have the right~~
10 to To effect sound wildlife management and maintain biological
11 balance as provided in section 109.39, the commission may
12 set aside certain portions of any state waters for spawning
13 grounds where the same are suitable for this purpose for such
14 length of time as ~~he~~ it may deem advisable by the ~~placing~~
15 posting of notices in conspicuous places around such area,
16 and it shall be unlawful for any person to fish or to in any
17 manner interfere with the spawning of fish in this area.
18 Any person violating any of the provisions of this section
19 shall be guilty of a misdemeanor and punished as provided
20 in section 109.32.

21 Sec. 8. Section one hundred nine point thirty-two (109.32),
22 unnumbered paragraph one (1), Code 1971, is amended to read
23 as follows:

24 Whoever shall take, catch, kill, injure, destroy, have
25 in possession, buy, sell, ship, or transport any frogs, fish,
26 mussels, birds, their nests, eggs, or plumage, fowls, game,
27 or animals in violation of the provisions of this chapter
28 or of administrative ~~orders~~ rules of the ~~state conservation~~
29 commission or whoever shall use any device, equipment, seine,
30 trap, net, tackle, firearm, drug, poison, explosive, or other
31 substance or means, the use of which is prohibited by this
32 chapter, or use the same at a time, place or in a manner or
33 for a purpose prohibited, or do any other act in violation
34 of ~~such~~ the provisions of this chapter or of administrative
35 rules of the commission for which no other punishment is

1 provided, shall be fined not less than ten dollars nor more
2 than one hundred dollars or be imprisoned in the county jail
3 not more than thirty days.

4 Sec. 9. Section one hundred nine point thirty-nine
5 (109.39), unnumbered paragraph one (1), Code 1971, is amended
6 to read as follows:

7 The open seasons, closed seasons, bag limits, size limits,
8 catch limits, possession limits and territorial limitations
9 set forth herein pertaining to fish, game and various species
10 of wildlife are based upon a proper biological balance as
11 hereinafter defined being maintained for each species or kind.
12 The seasons, catch limits, bag limits, size limits, possession
13 limits and territorial limitations set forth herein shall
14 prevail and be in force and effect for each and every species
15 of wildlife to which they pertain as long as the biological
16 balance for each species or kind remain such as to assure
17 the maintenance of an adequate supply of such species. The
18 commission is hereby designated the sole agency to determine
19 the facts as to whether such biological balance does or does
20 not exist. If the commission, after investigation finds that
21 the number ~~and/or~~ or the number and sex of each or any species
22 or kind of wildlife is at variance to aforesaid condition,
23 the commission shall, by administrative ~~order~~ rule, extend,
24 shorten, open or close seasons ~~and/or-change~~ and set, increase,
25 or reduce catch limits, bag limits, size limits, ~~and/or~~
26 possession limits, ~~or areas~~ territorial limitations in
27 accordance with said findings. For the purpose of this
28 section, biological balance is defined as that condition when
29 all losses to population are compensated by natural
30 reproductive activity or artificial replenishment, replacement
31 or stocking.

32 EXPLANATION

33 This bill is designed to provide required statutory guide-
34 lines for the adoption of administrative rules by the state
35 conservation commission.

1 The authority of the state conservation director to estab-
2 lish state hatcheries, spawning grounds, game farms, and state
3 game refuges is given to the state conservation commission.

4 Also, the procedure of giving notice that a state game
5 refuge is established is changed from newspaper publication
6 to the posting of signs.

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