

CHAPTER 1118

REGULATION OF NATURAL RESOURCES AND RECREATION ACTIVITIES

S.F. 2283

AN ACT relating to various recreation and conservation activities under the purview of the department of natural resources, providing for repeals, making penalties applicable, and including effective date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 461A.35, Code 2011, is amended to read as follows:

461A.35 Prohibited destructive acts.

1. It shall be unlawful for any person to use, enjoy the privileges of, destroy, injure, or deface plant life, trees, buildings, or other natural or material property, or to construct or operate for private or commercial purposes any structure, or to remove any plant life, trees, buildings, sand, gravel, ice, earth, stone, wood, or other natural material, or to operate vehicles, within the boundaries of any state park, preserve, or stream or any other lands or waters under the jurisdiction of the commission for any purpose whatsoever, except upon the terms, conditions, limitations, and restrictions as set forth by the commission.

2. A person who violates this section commits a simple misdemeanor, punishable as a scheduled violation pursuant to section 805.8B, subsection 6, paragraph "c".

Sec. 2. Section 461A.42, subsection 2, Code 2011, is amended to read as follows:

2. The use of fireworks, as defined in section 727.2, in state parks and preserves is prohibited except as authorized by a permit issued by the department. The commission shall establish, by rule adopted pursuant to chapter 17A, a fireworks permit system which authorizes the issuance of a limited number of permits to qualified persons to use or display fireworks in selected state parks and preserves.

3. A person violating this subsection section is guilty of a simple misdemeanor punishable as a scheduled violation pursuant to section 805.8B, subsection 6, paragraph "c". ~~In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars. The court shall order restitution if any damages were caused by the violation which may include, but is not limited to, community service.~~

Sec. 3. Section 461A.57, Code 2011, is amended to read as follows:

461A.57 Penalties.

Any person violating any of the provisions of sections ~~461A.35~~ 461A.36 to 461A.41, 461A.43, and 461A.45 to 461A.56 is guilty of a simple misdemeanor.

Sec. 4. Section 481A.1, subsection 7, Code 2011, is amended to read as follows:

7. "Bait" includes, but is not limited to, minnows, green sunfish, orange-spotted sunfish, gizzard shad, frogs, crayfish, and salamanders, ~~and mussels.~~

Sec. 5. Section 481A.6A, subsection 1, Code 2011, is amended to read as follows:

1. As used in this section, "pen-reared pheasant" means a Chinese ring-necked pheasant (Phasianus colchicus torquatus) and its subspecies which originates from a captive population and which has been propagated and held by a hatchery. For the purposes of this section "pen-reared pheasant" does not include a Reeves (Syrmaticus reevesii) or Lady Amherst (Chrysolophus amherstiae) pheasant, a subspecies of the Chinese ring-necked pheasant such as a Japanese (Phasianus versicolor) or a Black-necked (P. colchicus colchicus) pheasant, or a melanistic mutant (black, white, or other color mix) of the Chinese ring-necked pheasant. This subsection is not applicable to game birds released for officially sanctioned field meets or trials and retriever meets or trials on private land pursuant to section 481A.22, pen-raised game birds used on private land pursuant to section 481A.56, or game birds released on hunting preserves pursuant to chapter 484B.

Sec. 6. NEW SECTION. 481A.17 Target shooting sports program.

The department shall establish a target shooting sports program to promote recreational target shooting sports. The purposes of the program shall be to introduce more Iowans to target shooting sports, promote existing target shooting programs, provide more target shooting facilities, and improve existing target shooting facilities. The commission may adopt rules to achieve these purposes.

Sec. 7. Section 481A.131, Code 2011, is amended to read as follows:

481A.131 Judgment — execution.

1. In each case of conviction of unlawfully taking, catching, killing, injuring, destroying, or having in possession any fish, game, or fur-bearing animal, the court shall enter a judgment in favor of the state of Iowa for liquidated damages in an amount as provided in section 481A.130, ~~and it shall be the duty of the commission and the prosecuting attorney or attorney general, to collect the liquidated damages by execution or otherwise.~~ If two or more persons who have acted together are convicted of the unlawful taking, catching, killing, injuring, destroying, or having possession of any fish, game, or fur-bearing animal, the judgment shall be entered against them jointly.

2. Any liquidated damages received assessed under this section and section 481A.130 shall be remitted paid to the clerk of court. The clerk of court shall remit the damages paid to the treasurer of state who department of natural resources. The department of natural resources shall credit such damages to the state fish and game protection fund.

3. The return of any uninjured fish, game, or fur-bearing animal which has been unlawfully taken, caught, or possessed, to the place where taken or caught or to any other place approved by the commission, shall constitute the discharge of any liquidated damages provided under section 481A.130.

4. Civil suits for the collection of judgments may be prosecuted by the attorney general or by county attorneys.

Sec. 8. Section 481A.142, subsection 5, paragraph a, Code 2011, is amended to read as follows:

a. Sell bait, including minnows, and frogs, ~~and clams~~, propagated or raised within the licensed unit without having to obtain a bait dealer's license. However, aquaculture units wishing to take bait from areas other than their licensed units must also obtain a bait dealer's license.

Sec. 9. Section 481A.144, subsection 1, Code 2011, is amended to read as follows:

1. A person shall not sell minnows, frogs, crayfish, or salamanders, ~~and mussels~~ for fish bait without first obtaining a bait dealer's license from the department upon payment of the license fee. A licensee shall comply with all laws pertaining to taking, possessing, and selling of bait handled by the licensee. If convicted of violating a provision of this chapter or a rule adopted pursuant to this chapter, a licensee shall forfeit the licensee's bait dealer license upon demand of the director.

Sec. 10. Section 482.4, subsection 3, Code 2011, is amended to read as follows:

3. Commercial fishers and commercial turtle harvesters shall ~~purchase gear tags from the commission to be affixed~~ provide and affix weather-resistant gear tags to each piece of gear in use. ~~Notwithstanding the fee rates for gear tags under subsection 6, the minimum fee is five dollars. All tags are valid for ten years from the date of issue. In addition to the gear tags, all gear shall be tagged with a~~ Each weather-resistant gear tag showing shall plainly show the name and, address, and commercial license number of the licensee and whether the gear is fish or turtle gear.

Sec. 11. Section 482.4, subsection 4, Code 2011, is amended by striking the subsection.

Sec. 12. Section 482.4, subsection 6, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

6. Commercial fish and turtle gear tags are required on the following units of commercial gear:

a. Seine.

- b. Trammel net.
- c. Gill net.
- d. Entrapment nets.
- e. Commercial trotline.
- f. Commercial turtle trap.

Sec. 13. Section 482.4, subsection 7, Code 2011, is amended by striking the subsection.

Sec. 14. Section 483A.1, subsection 2, paragraph s, Code 2011, is amended by striking the paragraph.

Sec. 15. Section 484B.1, Code 2011, is amended by adding the following new subsection: NEW SUBSECTION. 3A. “Elk” means an animal belonging to the cervidae family and classified as part of the canadensis species of the cervus genus.

Sec. 16. NEW SECTION. **484B.4A Minimum enclosed acreage — exceptions.**

1. A hunting preserve on which elk are kept must include at least three hundred twenty contiguous acres which are enclosed by a fence as required pursuant to section 484B.5. However, a person may keep elk only on a hunting preserve that includes a fewer number of enclosed acres if either of the following applies:

a. The commission grants a waiver for the hunting preserve according to terms and conditions required by the commission. The hunting preserve must include at least one hundred sixty contiguous acres.

b. (1) The hunting preserve was operated as a business on January 1, 2005.

(2) If the hunting preserve operated as a business on January 1, 2005, the landowner or the landowner’s successor in interest may sell or otherwise transfer ownership of the hunting preserve to another person who may continue to operate the hunting preserve in the same manner as the landowner. However, this subparagraph shall not apply if the owner of the hunting preserve or any successor in interest fails to meet the licensing requirements of section 484B.4 each year.

Sec. 17. Section 484C.1, Code 2011, is amended by adding the following new subsection: NEW SUBSECTION. 3A. “Elk” means an animal belonging to the cervidae family and classified as part of the canadensis species of the cervus genus.

Sec. 18. Section 484C.5, Code 2011, is amended to read as follows:

484C.5 Minimum enclosed acreage — exceptions.

1. A hunting preserve must include at least three hundred twenty contiguous acres which are enclosed by a fence certified pursuant to section 484C.6. However, the hunting preserve may include a fewer number of enclosed acres if any of the following applies:

1. a. The commission grants a waiver for the hunting preserve according to terms and conditions required by the commission. The hunting preserve must include at least one hundred sixty contiguous acres.

2. ~~a.~~ b. (1) The hunting preserve was operated as a business on January 1, 2005.

b. (2) If the hunting preserve operated as a business on January 1, 2005, the landowner or the landowner’s successor in interest may sell or otherwise transfer ownership of the hunting preserve to another person who may continue to operate the hunting preserve in the same manner as the landowner. However, this ~~paragraph~~ subparagraph shall not apply if the owner of the hunting preserve or any successor in interest fails to register with the department as provided in section 484C.7 for three or more consecutive years.

3. ~~a.~~ c. (1) The hunting preserve was not operated as a business on January 1, 2005, and all of the following apply:

(1) (a) The hunting preserve has at least one hundred contiguous acres.

(2) (b) The hunting preserve’s fence is certified by the department not later than September 1, 2005.

b. (2) If the hunting preserve complies with ~~paragraph “a”~~ subparagraph (1), the landowner or the landowner’s successor in interest may sell or otherwise transfer ownership of the hunting preserve to another person who may continue to operate the hunting preserve

in the same manner as the landowner. However, this ~~paragraph~~ subparagraph shall not apply if the owner of the hunting preserve or any successor in interest fails to register with the department as provided in section 484C.7 for three or more consecutive years.

2. Notwithstanding any other provision of this chapter or chapter 484B, a person may keep whitetail and elk together on a hunting preserve that includes less than three hundred twenty enclosed acres if the person receives a waiver as provided in subsection 1, paragraph "a" or meets the conditions specified in subsection 1, paragraph "b".

Sec. 19. Section 805.8B, subsection 6, paragraph c, Code 2011, is amended to read as follows:

c. For violations of ~~section~~ sections 461A.35, 461A.42, and 461A.44, the scheduled fine is fifty dollars.

Sec. 20. REPEAL. Chapter 568, Code and Code Supplement 2011, is repealed.

Sec. 21. EFFECTIVE UPON ENACTMENT. The following provision or provisions of this Act, being deemed of immediate importance, take effect upon enactment:

1. The sections of this Act amending sections 484B.1, 484C.1, and 484C.5.
2. The section of this Act enacting section 484B.4A.

Approved May 25, 2012