

FEB 24 2006
Place On Calendar

HOUSE FILE 2546
BY COMMITTEE ON NATURAL
RESOURCES

(SUCCESSOR TO HF 2056)

Passed House, Date 3-8-06 Passed Senate, Date 5-3-06
Vote: Ayes 56 Nays 42 Vote: Ayes 49 Nays 0
Re-passed Approved _____
5-3-06 93-0

A BILL FOR

1 An Act relating to public and private landowners' immunity from
2 premises liability during urban deer control hunts authorized
3 by municipal ordinances.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF
2546

1 Section 1. NEW SECTION. 481A.40 URBAN DEER CONTROL.

2 1. As used in this section, unless the context clearly
3 requires a different meaning:

4 a. "Municipality" means a city or county in this state.

5 b. "Urban deer control" means deer hunting with a bow and
6 arrow on public or private land in a municipality, without
7 charge, as authorized by a municipal ordinance, for the
8 purpose of reducing or stabilizing an urban deer population in
9 the municipality.

10 2. An owner of public or private land shall not be liable
11 for loss arising from personal injury or property damage
12 occurring as a consequence of allowing urban deer control on
13 the owner's property.

14 3. A municipal ordinance which authorizes urban deer
15 control shall allow participation in urban deer control only
16 by trained volunteer bow hunters and shall include conditions
17 intended to minimize the risk of injury to people and
18 property. An urban deer control ordinance is not effective
19 until the ordinance has been approved by the department of
20 natural resources.

21 4. A hunter who participates in urban deer control
22 pursuant to this section shall be otherwise qualified to hunt
23 deer in this state, have a hunting license and pay the
24 wildlife habitat fee, and obtain a special urban deer control
25 hunting license valid only for the dates, locations, and type
26 of deer specified on the license. Special deer hunting
27 licenses issued pursuant to this section shall be available
28 only to residents and shall cost the same as deer hunting
29 licenses issued during general deer seasons. The commission
30 may establish procedures for issuing more than one license per
31 person as necessary to achieve the purposes of urban deer
32 control, and the cost of each additional license shall be ten
33 dollars.

34 5. The commission shall adopt rules in accordance with
35 chapter 17A necessary for the administration of this section.

EXPLANATION

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This bill provides immunity from premises liability to public and private landowners who allow bow hunting of deer on their property for the purpose of urban deer control, pursuant to a municipal ordinance.

The bill defines "urban deer control" as deer hunting with a bow and arrow on public or private land in a municipality, without charge, as authorized by a municipal ordinance, for the purpose of reducing or stabilizing an urban deer population in the municipality.

The bill provides that such a landowner is not liable for loss arising from personal injury or property damage occurring as a consequence of allowing urban deer control on the owner's property.

The bill allows a municipality, i.e., any city or county in the state, to adopt an ordinance authorizing trained, volunteer hunters to hunt deer with a bow and arrow within the municipality, without charge, for the purpose of urban deer control.

The municipal ordinance is required to include conditions, which are intended to minimize the risk of injury to persons and property.

A hunter who participates in urban deer control pursuant to a municipal ordinance is required to be otherwise qualified to hunt deer in this state, have a hunting license and pay the wildlife habitat fee, and obtain a special urban deer control hunting license valid only for the dates, locations, and type of deer specified on the license. Such special deer hunting licenses are available only to residents and cost the same as deer hunting licenses issued during general deer seasons, which is \$25.50. The natural resource commission may establish procedures for issuing more than one license per person as necessary to achieve the purposes of urban deer control, and the cost of each additional license is \$10.

An urban deer control ordinance is not effective until it

1 has been approved by the department of natural resources. The
2 department is also required to adopt rules in accordance with
3 Code chapter 17A necessary for the administration of the
4 ordinance provision.

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HOUSE FILE 2546

S-5128

1 Amend House File 2546, as passed by the House, as
2 follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. Section 461C.1, Code 2005, is amended
6 to read as follows:

7 461C.1 PURPOSE.

8 The purpose of this chapter is to encourage private
9 owners of land to make land and water areas available
10 to the public for recreational purposes and for urban
11 deer control by limiting their liability toward
12 persons entering thereon for such purposes.

13 Sec. 2. Section 461C.2, subsection 3, Code 2005,
14 is amended to read as follows:

15 3. "Land" means private land located in a
16 municipality including abandoned or inactive surface
17 mines, caves, and land used for agricultural purposes,
18 including marshlands, timber, grasslands and the
19 privately owned roads, water, water courses, private
20 ways and buildings, structures and machinery or
21 equipment appurtenant thereto.

22 Sec. 3. Section 461C.2, Code 2005, is amended by
23 adding the following new subsections:

24 NEW SUBSECTION. 3A. "Municipality" means any city
25 or county in the state.

26 NEW SUBSECTION. 5. "Urban deer control" means
27 deer hunting with a bow and arrow on private land in a
28 municipality, without charge, as authorized by a
29 municipal ordinance, for the purpose of reducing or
30 stabilizing an urban deer population in the
31 municipality.

32 Sec. 4. Section 461C.3, Code 2005, is amended to
33 read as follows:

34 461C.3 LIABILITY OF OWNER LIMITED.

35 Except as specifically recognized by or provided in
36 section 461C.6, an owner of land owes no duty of care
37 to keep the premises safe for entry or use by others
38 for recreational purposes or urban deer control, or to
39 give any warning of a dangerous condition, use,
40 structure, or activity on such premises to persons
41 entering for such purposes.

42 Sec. 5. Section 461C.4, unnumbered paragraph 1,
43 Code 2005, is amended to read as follows:

44 Except as specifically recognized by or provided in
45 section 461C.6, a holder of land who either directly
46 or indirectly invites or permits without charge any
47 person to use such property for recreational purposes
48 or urban deer control does not thereby:

49 Sec. 6. Section 461C.5, Code 2005, is amended to
50 read as follows:

S-5128

1 461C.5 DUTIES AND ABILITIES OF OWNER OF LEASED
2 LAND.

3 Unless otherwise agreed in writing, the provisions
4 of sections 461C.3 and 461C.4 shall be deemed
5 applicable to the duties and liability of an owner of
6 land leased, or any interest or right therein
7 transferred to, or the subject of any agreement with,
8 the United States or any agency thereof, or the state
9 or any agency or subdivision thereof, for recreational
10 purposes or urban deer control.

11 Sec. 7. Section 461C.6, subsection 2, Code 2005,
12 is amended to read as follows:

13 2. For injury suffered in any case where the owner
14 of land charges the person or persons who enter or go
15 on the land for the recreational use thereof or for
16 deer hunting, except that in the case of land or any
17 interest or right therein, leased or transferred to,
18 or the subject of any agreement with, the United
19 States or any agency thereof or the state or any
20 agency thereof or subdivision thereof, any
21 consideration received by the holder for such lease,
22 interest, right or agreement, shall not be deemed a
23 charge within the meaning of this section.

24 Sec. 8. Section 461C.7, subsection 2, Code 2005,
25 is amended to read as follows:

26 2. Relieve any person using the land of another
27 for recreational purposes or urban deer control from
28 any obligation which the person may have in the
29 absence of this chapter to exercise care in the use of
30 such land and in the person's activities thereon, or
31 from the legal consequences of failure to employ such
32 care.

33 Sec. 9. NEW SECTION. 461C.8 URBAN DEER CONTROL
34 -- MUNICIPAL ORDINANCE.

35 1. A municipality may adopt an ordinance
36 authorizing trained, volunteer hunters to hunt deer
37 with a bow and arrow on private land within the
38 municipality, without charge, for the purpose of urban
39 deer control.

40 2. The ordinance shall specify all of the
41 following:

42 a. How a person qualifies to participate in urban
43 deer control.

44 b. Where urban deer control can occur.

45 c. Conditions under which urban deer control can
46 be conducted, which are intended to minimize the risk
47 of injury to persons and property.

48 3. A hunter who participates in urban deer control
49 pursuant to this section shall be otherwise qualified
50 to hunt deer in this state, have a hunting license and

1 pay the wildlife habitat fee, and obtain a special
2 deer hunting license valid only for the dates,
3 locations, and type of deer specified on the license.
4 Special deer hunting licenses issued pursuant to this
5 section shall be available only to residents and shall
6 cost the same as deer hunting licenses issued during
7 general deer seasons. The commission may establish
8 procedures for issuing more than one license per
9 person as necessary to achieve the purposes of urban
10 deer control, and the cost of each additional license
11 shall be ten dollars.

12 4. An urban deer control ordinance is not
13 effective until it has been approved by the department
14 of natural resources.

15 5. The department of natural resources shall adopt
16 rules in accordance with chapter 17A necessary for the
17 administration of this section."

18 2. Title page, by striking lines 1 through 3 and
19 inserting the following: "An Act allowing private
20 landowners limited immunity from premises liability
21 during urban deer control hunts."

By DAVID MILLER

HOUSE FILE 2546

AN ACT

ALLOWING PRIVATE LANDOWNERS LIMITED IMMUNITY FROM PREMISES
LIABILITY DURING URBAN DEER CONTROL HUNTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 461C.1, Code 2005, is amended to read as follows:

461C.1 PURPOSE.

The purpose of this chapter is to encourage private owners of land to make land and water areas available to the public for recreational purposes and for urban deer control by limiting their liability toward persons entering thereon for such purposes.

Sec. 2. Section 461C.2, subsection 3, Code 2005, is amended to read as follows:

3. "Land" means private land located in a municipality including abandoned or inactive surface mines, caves, and land used for agricultural purposes, including marshlands, timber, grasslands and the privately owned roads, water, water courses, private ways and buildings, structures and machinery or equipment appurtenant thereto.

Sec. 3. Section 461C.2, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. "Municipality" means any city or county in the state.

NEW SUBSECTION. 5. "Urban deer control" means deer hunting with a bow and arrow on private land in a municipality, without charge, as authorized by a municipal ordinance, for the purpose of reducing or stabilizing an urban deer population in the municipality.

Sec. 4. Section 461C.3, Code 2005, is amended to read as follows:

461C.3 LIABILITY OF OWNER LIMITED.

Except as specifically recognized by or provided in section 461C.6, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes or urban deer control, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes.

Sec. 5. Section 461C.4, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Except as specifically recognized by or provided in section 461C.6, a holder of land who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes or urban deer control does not thereby:

Sec. 6. Section 461C.5, Code 2005, is amended to read as follows:

461C.5 DUTIES AND ABILITIES OF OWNER OF LEASED LAND.

Unless otherwise agreed in writing, the provisions of sections 461C.3 and 461C.4 shall be deemed applicable to the duties and liability of an owner of land leased, or any interest or right therein transferred to, or the subject of any agreement with, the United States or any agency thereof, or the state or any agency or subdivision thereof, for recreational purposes or urban deer control.

Sec. 7. Section 461C.6, subsection 2, Code 2005, is amended to read as follows:

2. For injury suffered in any case where the owner of land charges the person or persons who enter or go on the land for the recreational use thereof or for deer hunting, except that in the case of land or any interest or right therein, leased or transferred to, or the subject of any agreement with, the United States or any agency thereof or the state or any agency thereof or subdivision thereof, any consideration received by

the holder for such lease, interest, right or agreement, shall not be deemed a charge within the meaning of this section.

Sec. 8. Section 461C.7, subsection 2, Code 2005, is amended to read as follows:

2. Relieve any person using the land of another for recreational purposes or urban deer control from any obligation which the person may have in the absence of this chapter to exercise care in the use of such land and in the person's activities thereon, or from the legal consequences of failure to employ such care.

Sec. 9. NEW SECTION. 461C.8 URBAN DEER CONTROL -- MUNICIPAL ORDINANCE.

1. A municipality may adopt an ordinance authorizing trained, volunteer hunters to hunt deer with a bow and arrow on private land within the municipality, without charge, for the purpose of urban deer control.

2. The ordinance shall specify all of the following:

a. How a person qualifies to participate in urban deer control.

b. Where urban deer control can occur.

c. Conditions under which urban deer control can be conducted, which are intended to minimize the risk of injury to persons and property.

3. A hunter who participates in urban deer control pursuant to this section shall be otherwise qualified to hunt deer in this state, have a hunting license and pay the wildlife habitat fee, and obtain a special deer hunting license valid only for the dates, locations, and type of deer specified on the license. Special deer hunting licenses issued pursuant to this section shall be available only to residents and shall cost the same as deer hunting licenses issued during general deer seasons. The commission may establish procedures for issuing more than one license per person as necessary to achieve the purposes of urban deer control, and the cost of each additional license shall be ten dollars.

4. An urban deer control ordinance is not effective until it has been approved by the department of natural resources.

5. The department of natural resources shall adopt rules in accordance with chapter 17A necessary for the administration of this section.

CHRISTOPHER C. RANTS
Speaker of the House

JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2546, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2006

THOMAS J. VILSACK
Governor