

## LEGISLATIVE BILL 331

Approved by the Governor April 16, 1973

Introduced by Syas, 13

AN ACT to amend sections 37-201, 37-226, 37-503, and 37-719, Reissue Revised Statutes of Nebraska, 1943, and sections 37-101, 37-213, and 37-307, Revised Statutes Supplement, 1972, relating to game and fish; to redefine terms; to require permits as prescribed; to change an exception; to prohibit importation of certain wild vertebrate animals; to make it unlawful to release certain species as prescribed; and to repeal the original sections, and also sections 37-229, 37-230, and 37-231, Reissue Revised Statutes of Nebraska, 1943.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 37-101, Revised Statutes Supplement, 1972, be amended to read as follows:

37-101. As used in this act, unless otherwise specified or plainly intended, the word game shall include all game fish, bullfrogs, snapping turtles, tiger salamanders, mussels, crows, game animals, fur-bearing animals, game birds, and all other birds and other creatures protected by this act; the term game fish shall include all fish except buffalo, carp, gar, quillback, sucker, and gizzard shad; the term game animals shall include all antelope, cottontail rabbits, deer, elk, and squirrels; the term fur-bearing animals shall include all beaver, martens, minks, except mutation minks, muskrats, and otters; the term game birds shall include all migratory water fowl, coots, cranes, curlew, doves, ducks, geese, grouse, partridges, pheasants, plovers, prairie chickens, quail, snipes, swans, and wild turkeys; the word raptor shall include any bird of the Falconiformes or Strigiformes, except the golden and bald eagles; the words herein and hereof refer to this entire act; the words person, owner, proprietor, grantee, lessee, and licensee shall mean and include individuals, partnerships, associations, corporations, and municipalities; the words board and commission shall each mean the Game and Parks Commission; and the word officer includes every person authorized to enforce this act. Hunt when used in this section shall be construed to mean and include take, pursue, shoot, kill, capture, collect, trap, or attempt to take, pursue, shoot, capture, collect, kill, or trap; and raw fur shall be construed to

mean the green pelts of any game animal or fur-bearing animal except commercially reared mutations. Whenever the possession, use, importation, storage, taxidermy for millinery purposes, sale, or offering or exposing for sale of fish, game, or song, insectivorous, or other birds, including mourning doves, is prohibited or restricted, the prohibition or restriction, when not specifically stated to be otherwise, shall mean any part of such fish, game, or song, insectivorous, or other birds; Provided, that any nonresident person who takes, hunts, kills or pursues or attempts to take, hunt, kill, or pursue, or has in his possession any wild mammal, bird, turtle, mussel, or amphibian shall first obtain and have in his possession a nonresident hunting permit as defined in subdivision (2) of section 37-204.

Sec. 2. That section 37-201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-201. For the purpose of supplying revenue for the propagation, importation, distribution, protection, and conservation of the wildlife of this state, including all wild animals, birds, fish, and all things pertaining thereto, every person sixteen years of age or older who hunts for game animals or game birds or takes bullfrogs, or any other species as defined as game in section 37-101, or angles for fish, and every person who traps for fur-bearing animals, shall first pay a fee as herein required and obtain a permit, except the owner or his invitee who angles for fish in any body of water (1) which is entirely upon privately-owned land, (2) which is entirely privately stocked, (3) which does not connect by inflow or outflow with other water outside said land, and (4) when such owner does not operate such body of water on a commercial basis for profit; ~~or takes bullfrogs, and every person who traps for fur-bearing animals shall first pay a fee as herein required and obtain a permit;~~ Provided, that any bona fide farmer or rancher who owns or leases farm or ranch land, and who actually resides on such land, together with members of his immediate family also residing on such land, may hunt, take, and possess, within duly established season bag and possession limits, upland game, and all game except migratory water fowl, shore birds, deer, antelope, and wild turkey without the necessity of paying a fee and obtaining a hunting permit, as required in section 37-201 and section 37-213, or an upland game bird stamp as required in sections 37-217 to 37-225, and for the purpose of this exemption, the term immediate family shall mean and be limited to husband and wife and their children, and the term upland game shall mean and be limited to cottontail rabbits, squirrels, grouse, partridges, pheasants, prairie chickens, and

quail, and bullfrogs. Such exemption shall only apply to hunting done on the home farm or ranch, and shall not apply when hunting on the lands of other persons or on land owned by the exempted farmer or rancher and not directly connected and contiguous with the land upon which the farmer or rancher actually resides; Provided, that any farmer or rancher owning or operating a farm or ranch may destroy or have destroyed any predator preying on livestock or poultry on lands owned or controlled by him without a permit issued by the Game and Parks Commission.

Sec. 3. That section 37-213, Revised Statutes Supplement, 1972, be amended to read as follows:

37-213. Unless holding a permit as in this act required, it shall be unlawful (1) for any person to trap or otherwise take or attempt to take, or have in possession any fur-bearing animal or raw fur, (2) for any person who is a resident of the State of Nebraska and is sixteen years old or older or who is a nonresident of this state to hunt for, kill, shoot at, pursue, take, or possess any kind of game birds, or game animals, or crows, (3) for any person of the age of sixteen years or older to hunt or take or attempt to hunt or take any migratory waterfowl without first obtaining and affixing to his hunting permit a federal migratory bird hunting stamp. All such stamps affixed to hunting permits must be signed by the holder of the hunting permit. The term migratory waterfowl shall mean any ducks, geese, coots, or brant upon which an open season has been established by the Game and Parks Commission, or (4) for any person who is sixteen years of age or older to take, angle for, or attempt to take any kind of fish, bullfrog, snapping turtle, tiger salamander, mussel, or minnow from the waters of this state or possess the same except that the owner or invitee of the owner of any body of water (a) located entirely upon privately-owned land, (b) which is entirely privately stocked, (c) which does not connect by inflow or outflow with other water outside said land, and (d) when such owner does not operate such body of water on a commercial basis for profit shall not be required to hold a permit before fishing from or possessing fish or minnows taken from such waters; Provided, that no fishing permit shall be required for fishing in any duly licensed commercial put and take fishery operating under rules and regulations prescribed by the Game and Parks Commission. The fee for licensing such put and take commercial fishery shall be fifty dollars per year, payable in advance, and no person shall operate such an establishment without first obtaining such permit from the commission. Before issuing such permit the commission shall investigate each such establishment

annually and be satisfied that the same is a bona fide commercial put and take fishery operating within all applicable state and federal laws. It shall be unlawful for a nonresident to hunt for, kill, shoot at, pursue, take, or possess any kind of game birds or game animals, mussel, turtle, or amphibian or to angle for or take or attempt to angle for or take any kind of fish while in the possession of a resident permit illegally obtained. It shall also be unlawful for anyone to do or attempt to do any other thing for which a permit is herein provided without first obtaining such permit and paying the fee required. Any violation of the provisions of this section shall constitute a misdemeanor, and upon conviction thereof shall subject the offender to the following penalties:

If the offense shall be failure to hold a hunting, fishing, deer, turkey, or antelope permit as required, the penalty shall be a fine of not less than twenty dollars or twice the original cost of the required permit, whichever is greater, nor more than one hundred dollars, and in addition, unless issuance of the required permit is restricted so that permits are not available, the court shall require the offender to purchase the required permit and exhibit the same to the court.

If the offense be for trapping in violation of this section, the penalty shall be a fine of not less than ten dollars nor more than five hundred dollars or imprisonment not exceeding six months, or both such fine and imprisonment.

Any other violation of this section shall subject the offender, upon conviction, to a fine of not less than ten nor more than fifty dollars.

Sec. 4. That section 37-226, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-226. Bullfrogs may be taken, possessed, transported, and used under regulations; setting forth seasons, and bag limits, open areas and manner of taking established by the Game and Parks Commission, by the holder of a hunting or fishing permit. ~~The holder of a hunting permit may take bullfrogs only by means of firearms, bow and arrow, hand, or hand net, and the holder of a fishing permit may take bullfrogs only by the means of hand, hand net, gig, or hook and line.~~ In taking bullfrogs, an artificial light may be used.

Sec. 5. That section 37-307, Revised Statutes Supplement, 1972, be amended to read as follows:

37-307. It shall be unlawful (1) for any person to shoot, kill, destroy, catch, attempt to shoot, kill, destroy, catch, or have in his possession, living or dead, any song, insectivorous, or nongame bird, including mourning doves, or part of any such bird, other than an English sparrow, blue-jay, crow, or European starling; or bronzed-grackle, great-horned-owl, or magpie; or (2) for any person to take or needlessly destroy the nests or eggs of any song, insectivorous, or nongame birds, or to have in his or her possession the nests or eggs thereof other than nests and eggs of the birds excepted in subdivision (1) hereof.

The provisions of this section shall not be construed to apply to the possession of species lawfully acquired prior to the effective date of protection of a given species or to prohibit importation into the state species which may be otherwise lawfully imported into the state or the United States or lawfully taken, acquired, or removed from another state if the person engaging therein demonstrates by substantial proof that such species was lawfully taken or removed from such state.

The Game and Parks Commission is authorized to fix, prescribe, and publish regulations for the control of individual nuisance birds as described in this section or populations of such birds to reduce or avert depredation upon ornamental or shade trees, agricultural crops, livestock, or wildlife or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance. Such regulations shall specify the species which may be controlled, the circumstances under which control is to be permitted, and the control methods which may be employed.

Sec. 6. That section 37-503, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-503. It shall be unlawful (1) to catch or take, or attempt to catch or take, minnows, except for bait; (2) to catch or take, or attempt to catch or take, minnows by the use of minnow seines of more than twenty feet in length, or four feet in depth; (3) to catch or take, or attempt to catch or take, minnows with minnow seines or traps, the meshes of which are other than one-quarter of an inch square; (4) for any person, except a licensed fish breeder or bait vendor, to buy, sell, or barter, or offer to buy, sell, or barter or have in his or her possession minnows for any purpose whatsoever except for use as bait; (5) to keep or retain any game fish taken while netting or taking, or attempting to net or take, minnows for bait, and all game fish, of whatever

size netted or taken, shall be immediately returned to the water from which taken and no minnows shall be taken from reservoirs, lakes, or bayous. Individuals, either resident or nonresident, over sixteen years of age selling minnows or salamanders as bait for profit shall be required to purchase a bait vendor's permit, which will be provided by and can be obtained from the commission for a fee of twenty-five dollars. Individuals, over sixteen years of age and residents of this state, selling crayfish or leopard or striped frogs, shall be required to purchase from the commission a resident bait vendor permit for a fee of twenty-five dollars; Provided, that if such individual holds a permit for minnows or salamanders as provided in this section such permit shall include crayfish and leopard or striped frogs.

Sec. 7. That section 37-719, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-719. It shall be unlawful for any person, partnership, association, or corporation to import into the state or possess the animal known as the San Juan rabbit or any other species of wild vertebrate animal declared by the Game and Parks Commission following public hearing to constitute a serious threat to economic or ecologic conditions; Provided, that the Game and Parks Commission may authorize by specific written permit the acquisition and possession of such species for educational or scientific purposes. It shall also be unlawful to release to the wild any wild nonnative bird, wild nonnative mammal, reptile or amphibian or to release any nonnative fish to streams and public other waters or to release in public waters in this state any fish not taken therefrom, without written authorization from the Game and Parks Commission. Any person, partnership, association, or corporation violating the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than twenty-five dollars nor more than five hundred dollars.

Sec. 8. That original sections 37-201, 37-226, 37-503, and 37-719, Reissue Revised Statutes of Nebraska, 1943, and sections 37-101, 37-213, and 37-307, Revised Statutes Supplement, 1972, and also sections 37-229, 37-230, and 37-231, Reissue Revised Statutes of Nebraska, 1943, are repealed.