

LEGISLATIVE BILL 718

Approved by the Governor May 3, 1995

Introduced by Agriculture Committee: Dierks, 40, Chairperson; Cudaback, 36; Elmer, 44; Hudkins, 21; Schellpeper, 18; Schmitt, 41

AN ACT relating to animals; to amend sections 37-719 and 54-701.03, Reissue Revised Statutes of Nebraska, and sections 37-505, 37-703, 37-705, and 37-706, Revised Statutes Supplement, 1994; to classify domesticated elk and deer and ratite birds as livestock; to define and redefine terms; to change sale, possession, importation, and production restrictions; to provide for the Domesticated Cervine Animal Registry; to provide a penalty; and to repeal the original sections.

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

Section 1. Section 37-505, Revised Statutes Supplement, 1994, is amended to read:

37-505. It shall be unlawful to buy, sell, or barter (1) any game bird or part thereof, except the feathers or skins from legally taken upland game birds, (2) any antelope, cottontail rabbit, deer, elk, squirrel, or bullfrog, except that deer, antelope, or elk hides from legally taken animals may be sold and any domesticated cervine animal as defined in section 54-701.03, or any part thereof, may be bought, sold, or bartered if such animal or parts thereof are appropriately marked for proof of ownership according to rules and regulations adopted and promulgated by the Department of Agriculture, or (3) any game fish protected by the Game Law at any time except as provided in section 37-503.05, whether such bird, animal, or fish was killed or taken within or outside this state, except that game fish lawfully shipped in from outside this state by residents of this state or game or fish lawfully acquired from a licensed game farm, from a person having an aquaculture permit, or, in the case of bullheads, pursuant to section 37-503.05 may be sold in this state, and the burden of proof shall be upon any such buyer, seller, or possessor to show by competent and satisfactory evidence that any game or game fish in his or her possession or sold by him or her was lawfully shipped in from outside this state or was lawfully acquired from one of such sources. Nonresidents holding a valid nonresident fish dealer's permit may possess, buy, sell, transport, and ship live bait minnows, live fish, all frogs, and crayfish legally obtained from outside this state or from a licensed aquaculture facility in accordance with rules and regulations adopted and promulgated by the commission. The fee for a nonresident fish dealer's permit shall be not less than fifty dollars and not more than sixty-five dollars, as established by the commission pursuant to section 81-814.02.

Sec. 2. Section 37-703, Revised Statutes Supplement, 1994, is amended to read:

37-703. Permits for game farming, fur farming, and aquaculture facilities may be issued by the commission upon written application by any qualified person. Such application shall state (1) the name, residence, and place of business of the applicant, (2) the exact description of the land upon which such game farm, fur farm, or aquaculture facility is to be located, together with the nature of the applicant's title to the land, whether in fee or under lease, and (3) the kind and approximate number of game animals, game birds, fur-bearing animals, except mutation foxes or minks, or aquatic organisms authorized to be kept or reared on such farm or in such facility. The annual fee for an aquaculture facility permit shall be not less than fifty dollars and not more than sixty-five dollars, as established by the commission pursuant to section 81-814.02. Such permits shall expire on December 31. Permits under this section shall not be required for possession or production of domesticated cervine animals as defined in section 54-701.03 which are registered with the Domesticated Cervine Animal Registry pursuant to section 7 of this act.

Sec. 3. Section 37-705, Revised Statutes Supplement, 1994, is amended to read:

37-705. Upon payment of the permit fees required by the Game Law, game animals, not to include domesticated cervine animals as defined in section 54-701.03, and game birds, fur-bearing animals, and aquatic organisms, lawfully held in possession in any other state or country, may be imported into this state by any legal holder of a breeder's permit described in section 37-703 except as provided in sections 37-535 to 37-538 and 37-719. Such

permit shall not confer upon the holder the right (1) to take wild game animals, fur-bearing animals, game birds, or aquatic organisms from the natural resources of Nebraska or (2) to purchase such animals, birds, or aquatic organisms from anyone in Nebraska except the commission or persons holding legal permits for the propagation and disposal of the same.

Sec. 4. Section 37-706, Revised Statutes Supplement, 1994, is amended to read:

37-706. Game and aquatic organisms propagated or raised under a permit issued under sections 37-702 to 37-712 may be sold or offered for sale and transported at any time, subject to rules and regulations adopted and promulgated by the commission.

(1) Before any live game of any kind raised under authority of any propagation permit is shipped out of the state, it shall be offered to the commission for propagating purposes. The secretary of the commission shall, within ten days, advise the permit holder whether it desires to purchase the same. If not purchased by the commission, it may be exported if tagged pursuant to subdivision (2) of this section. Game so raised, when slaughtered, may be shipped anywhere if tagged or properly labeled pursuant to such subdivision.

(2)(a) (1)(a) Except as provided in subdivision (b) of this subdivision, before any game raised or produced under authority of any propagating permit is shipped or removed from any premises, the permit holder shall apply to the commission for a tag, which shall be supplied at cost. The tag shall be composed of two parts, and, when detached, one part thereof, containing the name and address of both shipper and purchaser and the kind, number, and weight of the game shipped or removed, shall be attached to the bird or animal. The other part of the tag, containing the same information and such additional information as the commission may require, shall immediately be returned to the commission. The tag attached to a bird or animal shall so remain until the carcass of any bird is sold or the carcass of any animal is cut up for retail consumption, at which time the tag shall be removed by the person receiving or finally disposing of the bird or animal and shall at once be forwarded to the commission.

(b) Any permit holder who raises and processes game birds or animals for domestic trade only shall not be required to obtain a tag as prescribed in subdivision (a) of this subdivision. The permit holder shall identify any dressed and packaged game bird or animal with a label identifying the contents of the package, the name of the permit holder, and his or her permit number.

(3) (2) It shall be unlawful for any permit holder or his or her agent or employee to neglect to return to the commission any tag with the information thereon required or to kill, sell, give away, remove, or ship any game bred or raised under the authority of any propagating permit except in compliance with this section.

(4) (3) It shall be unlawful for any person to willfully or wantonly remove, mutilate, or destroy any tag attached to any bird or animal, according to this section, except as provided in this section.

(5) (4) It shall be unlawful for any person to willfully use any tag of the kind provided for in this section for carrying, removing, or shipping game taken or killed outside of the premises used for propagating the same, under authority of a permit, or for the purpose of a second shipment of game from any such premises.

(6) (5) The sale, purchase, or barter of any game bird or carcass thereof bearing shot marks or external wounds of any kind shall be prohibited, except that game birds obtained from the holder of a game farm permit which are shot in a hunting dog trial approved as a worthy training program by the commission and which were transported and tagged according to commission rules and regulations may be sold if permission for such sale is first obtained from the commission.

Each sale of aquatic organisms raised under a permit issued under sections 37-702 to 37-712 shall be recorded on duplicate invoices, one copy to be given to the purchaser, the other to be retained by the seller for at least two years.

Any person violating this section shall be guilty of a Class IV misdemeanor.

Sec. 5. Section 37-719, Reissue Revised Statutes of Nebraska, is amended to read:

37-719. (1) It shall be unlawful for any person, partnership, limited liability company, 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, including domesticated cervine animals as defined in section 54-701.03, declared by the commission following public hearing and consultation with the Department of Agriculture to constitute a serious threat

to economic or ecologic conditions, except that the 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 nonnative bird or nonnative mammal without written authorization from the commission. Any person, partnership, limited liability company, association, or corporation violating the provisions of this section subsection shall be guilty of a Class IV misdemeanor.

(2) Following public hearing and consultation with the Department of Agriculture, the commission may, by rule and regulation, regulate or limit the importation and possession of any wild vertebrate animal, including a domesticated cervine animal as defined in section 54-701.03, which is found to constitute a serious threat to economic or ecologic conditions.

Sec. 6. Section 54-701.03, Reissue Revised Statutes of Nebraska, is amended to read:

54-701.03. For purposes of sections 54-701 to 54-705 and 54-742 to 54-753.05:

(1) Animal ~~shall mean~~ means all vertebrate members of the animal kingdom except humans or uncaptured wild animals;

(2) Domesticated cervine animal means any elk, deer, or other member of the family cervidae legally obtained and raised in a confined area for breeding stock, exhibition, or companionship, or for the carcass, skin, or other part of such animal, but not for hunting or sport; and

~~(2)~~ (3) Livestock ~~shall mean~~ means cattle, swine, sheep, horses, goats, domesticated cervine animals, ratite birds, and poultry; and

(4) Ratite bird means any ostrich, emu, rhea, kiwi, or cassowary.

Sec. 7. The Department of Agriculture shall establish and maintain the Domesticated Cervine Animal Registry which shall monitor the location, kind, and number of domesticated cervine animals as defined in section 54-701.03 which are kept or reared within the state. A registration required under the registry shall state (1) the name, residence, and place of business of the owner, (2) the legal description of the land on which such animals are kept or reared, and (3) the kind and approximate number of animals to be kept or reared on such land. The registration shall be completed by December 31 of each year and within thirty days after any change in ownership or location of a domesticated cervine animal herd. Failure to comply with this section is a Class IV misdemeanor.

Sec. 8. Original sections 37-719 and 54-701.03, Reissue Revised Statutes of Nebraska, and sections 37-505, 37-703, 37-705, and 37-706, Revised Statutes Supplement, 1994, are repealed.