

No. 41

AN ACT

HB 1151

Amending the act of June 3, 1937 (P.L.1225, No.316), entitled "An act concerning game and other wild birds and wild animals; and amending, revising, consolidating, and changing the law relating thereto," changing classifications of game birds and unprotected birds to conform with Federal law and extending the commission's authority to regulate seasons on wild birds and wild animals.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 101, act of June 3, 1937 (P.L.1225, No.316), known as "The Game Law," amended May 24, 1956 (P.L.1736, No.579), March 9, 1970 (P.L.165, No.64) and June 22, 1970 (P.L.390, No.124), is amended to read:

Section 101. Definitions.—Whenever used in this act, unless a contrary intention is evident from the context, the word "person" shall include individuals, copartnerships, associations, and corporations; the singular shall include the plural, and the masculine, and feminine and neuter. The word "each" shall include the whole or any substantial part or parts.

The word "commission" shall mean the Pennsylvania Game Commission.

The word "director" shall mean the Executive Director of the Pennsylvania Game Commission.

The term "game birds" shall include: (a) the anatidae, commonly known as geese, brant, and river and sea ducks; (b) the rallidae, commonly known as rails, coots, mudhens, and gallinules; (c) the limicolae, commonly known as shore birds, plover, surf birds, snipe, woodcock, sandpipers, yellowlegs, tattlers, and curlew; (d) the gallinae, commonly known as wild turkeys, grouse, pheasants, partridges, and quail; *and* (e) the birds belonging to the order columbae, commonly known as doves. [*and* (f) the grackles, commonly known as blackbirds.]

The term "nongame birds" shall mean the common crow.

The term "game animals" shall include: (a) the wapiti or elk, (b) the deer, (c) the bear, (d) the wild rabbit and hare, (e) the red, gray, black and fox squirrel, (f) the raccoon, (g) the woodchuck, commonly known as groundhog, and (h) the bobcat or wildcat.

The term "big game" shall include: (a) the elk, (b) the deer, and (c) the bear.

The term "small game" shall include all species of game birds and game animals not classed as big game.

The word "game" shall include "game animals" and "game birds."

Except as modified by the resolutions of the commission, the term “fur-bearing animals” shall include: (a) the mink, (b) the muskrat, (c) the opossum, (d) the otter, (e) the skunk, commonly called polecat, and (f) the beaver.

The word “predators” shall include all wild animals not classed as game animals or fur-bearing animals and all wild birds other than game birds, *nongame birds* and protected birds.

Except as modified by the resolutions of the commission, the term “unprotected birds” shall include: (a) the [blue jay, (b) the] English sparrow [, (c)] *and* (b) the European starling [, (d) the kingfisher, (e) the great horned owl *and* (f) the crow].

The term “protected birds” shall include all wild birds not included within the terms “game birds,” “*nongame birds*” and “unprotected birds.” The term “protected birds” shall also include the goshawk, the sharpshinned hawk and the Cooper’s hawk.

The term “wild birds” includes all birds other than domestic birds.

The term “wild animals” includes all animals other than domestic animals.

The word “wildlife” shall mean and include wild birds and wild animals, regardless of classification, whether protected or unprotected, in a wild state in this Commonwealth.

[The] *In order to properly manage wildlife resources the commission may, by resolution, from time to time, after investigation or information otherwise obtained, [remove] add any animal to or remove from the list of fur-bearing animals, [or] add any bird to or remove from the list of unprotected birds; add any bird to or remove from the list of nongame birds, add any bird to or remove from the list of game birds; or add any animal to or remove from the list of game animals, in any part of the Commonwealth, by giving notice of such action in the manner hereinafter specified.*

The term “open season” shall mean the time during which game, [or] fur-bearing animals, *nongame birds and all other wild birds and wild animals of all classifications as hereinbefore defined* may be legally taken or killed, *protected birds excepted*, and shall include both the first and the last day of the season or period designated by this act, or by *resolution of the commission.*

The term “close season” shall mean the time during which game, [or] fur-bearing animals, *nongame birds and all other wild birds and wild animals of all classifications as hereinbefore defined* may not be legally taken or killed, and includes all periods of time not included within the open season.

The word “lands” as used in this act shall include land, waters, timber, minerals, oil, gas and all other appurtenances ordinarily connected therewith.

The word "lease" shall mean an agreement or contract by which the right to use real estate is granted or conveyed to or from the commission, or the act of such conveyance.

The term "hunting rights" shall mean the right to control the hunting, taking, killing, wounding or removal of game birds, game animals, fur-bearing animals and any other wild birds and wild animals on and within a specified area of land.

The ownership, jurisdiction over, and control of wild animals and wild birds, as herein defined, are hereby declared to be in the Commonwealth, in its sovereign capacity, to be controlled, regulated, and disposed of in accordance with the provisions of this act.

Section 2. The introductory paragraph of section 501 of the act, amended July 23, 1965 (P.L.240, No.136), is amended to read:

Section 501. Open Seasons.—After investigation, or information otherwise obtained by the commission, as to the annual game supply **and other wild birds and wild animals**, the commission may, by appropriate rules and regulations, a summary of which shall be published as hereinafter specified, fix seasons, shooting hours, and daily, season and possession limits, or remove protection and declare an open season, or increase, reduce or close seasons, or increase or reduce bag limits, for all species of game birds and game animals **and all other wild birds and wild animals as defined under section 101 of this act, protected birds excepted**, throughout the Commonwealth, or in any part thereof, or limit the number of hunters in any designated area and prescribe the methods of hunting therein, when in its opinion, such action is necessary to assure the maintenance of an adequate supply of such species, or when an unbalanced sex ratio exists which in its opinion should be corrected, or when, in the opinion of the commission, such additional open season will not jeopardize the future supply of game **or other wild birds or wild animals**.

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Section 3. Section 503 of the act is amended to read:

Section 503. Seasons and Bag Limits for Migratory Game Birds **and Nongame Birds**.—It shall be unlawful for any person to hunt, capture, kill, take, or attempt to take, possess, buy or sell, any migratory game bird, **nongame bird** or part thereof, except during such time and in such manner and numbers as may be prescribed by regulations promulgated under the provisions of the Federal Migratory Bird Treaty Act, which regulations are hereby made a part of the game law of this Commonwealth: Provided, however, That such Federal regulations shall not apply if the commission, or other provisions of this act, may prescribe further restrictions for the taking of migratory game birds **and nongame birds**.

Section 4. Section 505 of the act, amended July 23, 1971 (P.L.241, No.55), is amended to read:

Section 505. Action of Commission to Be Advertised.—To fix seasons, shooting hours, and daily, season and possession limits, or to remove protection and declare an open season, or to increase, reduce or close seasons or to increase or reduce bag limits, for any species of game birds, game animals, [or] fur-bearing animals **and all other wild birds and wild animals**, or to permit the taking of raccoons with traps or deadfalls, or to limit the number of hunters in any designated area and prescribe the methods of hunting therein; or to remove any animal from, or add any animal to, the list of fur-bearing animals; or to add any bird to **or remove any bird from** the list of unprotected birds, **or to add any game bird or game animal to or remove any game bird or game animal from the list of game birds or game animals; or to add any nongame bird to or remove any nongame bird from the list of nongame birds**, throughout the Commonwealth, or in any part thereof, a notice to that effect shall be published by the commission in not less than two newspapers of general circulation in each county affected, one time each week for at least two consecutive weeks, setting forth, either in full or in summarized form, the action of the commission and the rules and regulations adopted relative thereto. This requirement shall not apply to any changes in such regulations made by the commission because of weather factors or unpredictable game management needs after the initial regulations for the year are promulgated, and before the regulations for the next year are prepared. News items outlining these changes in full or in summarized form, shall be made available to news media throughout the State. The commission shall also publish and make available to each hunter a summary of the seasons and bag limits, and designate any counties that may be closed, and name the species of game birds and game animals or fur-bearing animals for which there is no open season, and shall prepare and distribute such additional posters or notices as in its judgment may be necessary.

It is unlawful for any person to violate any of the rules and regulations adopted by the commission, and published as herein required, for the preservation of game birds, game animals, [or] fur-bearing animals, **nongame birds and all other wild birds and wild animals**; or to take, or be possessed of, such birds or animals at a time, or in any number or manner, or of any kind or sex, contrary to such rules and regulations.

Section 5. The second paragraph of section 506 of the act, amended December 1, 1971 (P.L.584, No.153), is amended to read:

Section 506. Penalties.—Any person violating any of the provisions of this article shall, upon conviction, be sentenced to pay the following fines and costs of prosecution for each offense:

For taking, killing, wounding, possessing, or transporting from one locality to another within this State, or for attempting to take, kill, or wound, contrary to this article, or any rules and regulations relative to the taking of game, [or] fur-bearing animals, **nongame birds, or any other wild birds or wild animals** adopted by the commission:

* * *

Section 6. Section 702 of the act, amended August 1, 1963 (P.L.454, No.240) and June 21, 1967 (P.L.120, No.30), is amended to read:

Section 702. Hunting on Sunday and at Night.—It is unlawful for any person to hunt for, shoot at, chase, catch or kill, or attempt to shoot at, chase, catch, or kill, with or without dogs, any game, except in defense of person or property, upon the first day of the week commonly called Sunday, except for dog training or trial purposes as hereinafter provided; or to hunt for, shoot at, catch or kill, or attempt to hunt for, shoot at, catch or kill, *nongame birds* or any game between the closing hour of one day and the opening hour of the day following as set by resolutions of the commission, except that raccoons may be hunted for and killed any time during the open season, day or night. This section shall not prohibit the removal of raccoons or fur-bearing animals from traps or deadfalls on Sunday when lawfully caught.

Any person violating any of the provisions of this section shall be liable to the fine hereinafter provided.

Section 7. The first paragraph of section 703 of the act, amended December 17, 1965 (P.L.1122, No.436), is amended to read:

Section 703. Lawful Methods of Hunting.—It is lawful to hunt for, catch, take, wound or kill game of any kind *and nongame birds* only through the use of a gun, pistol, revolver, or bow and arrow or by means of falcon, of a kind the use of which is not hereinafter prohibited, except:

* * *

Section 8. Subsection (a) of section 704 of the act, amended October 18, 1972 (P.L.977, No.240), is amended to read:

[(a) Unlawful Methods and Devices]

Section 704. Unlawful Methods of Hunting.—(a) *Unlawful Methods and Devices.* It is unlawful for any person to shoot at or to shoot for any wild bird or wild animal unless it is plainly visible to him, or to dig, cut, or smoke or in any other manner take any live wild bird or wild animal, other than a predator, out of its den or place of refuge, except that woodchucks may be dug out of their dens in cultivated fields, under the conditions stipulated in the preceding section.

Except as otherwise provided, it is unlawful to hunt for, catch, take, kill, or wound, or attempt to catch, take, kill, or wound any wild bird or wild animal of any kind through the use of, (a) what is commonly known as an automatic gun or an automatic firearm of any kind, except that semi-automatic shotguns may be used for hunting and killing small game, *nongame birds*, predators, and unprotected birds; and except that a semi-automatic shotgun may be used for hunting and killing big game by a person having suffered an amputation of one or both hands if the shotgun has been limited to a three-shell capacity in magazine and chamber combined by a plug in such a manner that the plug cannot be removed without disassembling the gun; (b) or a magazine shotgun to hunt for any bird or animal, other than big game, unless it has been

limited to three-shell capacity in magazine and chamber combined by a plug in such a manner that the plug cannot be removed without disassembling the gun, or a swivel gun or an air-rifle, or the apparatus known as a silencer; (c) or from an automobile or vehicle or boat or craft of any kind, propelled by any mechanical power; (d) or to set, lay or prepare for use or to use any bait, hay, grain or other food, or any trap, snare, set-gun, net, bird-lime, deer-lick, pit-fall, turkey blind or turkey pen; the term "set-gun" as herein used meaning any contrivance, device, or firearm capable of discharging, or projecting, a deadly charge or missile, which is set to operate in the absence of the owner; (e) or to make use of, or take advantage of, any artificial light, battery, or other contrivance or device, except that artificial lights such as are ordinarily carried in the hand or on the person, may be used for the purpose of taking raccoons, opossums, skunks and foxes; (f) or to make use of any method or device not specifically permitted by this act, for the purpose of catching, taking, wounding, or killing wild birds or wild animals.

* * *

Section 9. This act shall take effect immediately.

APPROVED—The 22nd day of March, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 41.

A handwritten signature in cursive script, reading "C. McLaughlin Tucker". The signature is written in dark ink and is positioned above the printed name of the Secretary of the Commonwealth.

Secretary of the Commonwealth.