

1977 BILL 51

Third Session, 18th Legislature, 26 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 51

___ THE WILDLIFE AMENDMENT ACT, 1977 ___

THE MINISTER OF RECREATION, PARKS AND
WILDLIFE

First Reading

Second Reading

Third Reading

BILL 51

1977

THE WILDLIFE AMENDMENT ACT, 1977

(Assented to _____, 1977)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1 *The Wildlife Act is amended by this Act.*

2 *Section 2 is amended*

(a) *by repealing clause 3;*

(b) *as to clause 4 by adding “, the eggs of those birds and any part of such birds or eggs” after “Strigidae”,*

(c) *by repealing clause 9 and substituting the following:*

9 “exotic wildlife” means any wildlife that is not indigenous to Alberta or any part of such wildlife;

(d) *as to clause 14 by repealing subclause (x) and substituting the following:*

(x) the eggs of those birds and any part of such birds or eggs;

(e) *by repealing clause 15;*

(f) *by adding the following after clause 17:*

17.1 “habitat management area” means a habitat management area designated under section 8;

(g) *as to clause 18 by striking out “and any deliberate attempt made” and by substituting “or make any deliberate attempt”,*

(h) *by repealing clause 24 and by substituting the following:*

Explanatory Notes

1 This Bill will amend chapter 391 of the Revised Statutes of Alberta 1970.

2 Section 2, clauses 3, 4, 9, 14(x), 15, 18, 24, 25, 31 and 33 presently read as follows:

3 *“big game farm” means a place on which big game animals are kept for the purposes of propagation or for sale, gain, profit or pleasure;*

4 *“bird of prey” means any hawk, falcon, eagle, owl, osprey, vulture or any other species of the families Falconidae, Cathartidae, Accipitrida, Pandionidae or Strigidae;*

9 *“exotic wildlife” means all birds, mammals and other vertebrates that are not indigenous to Alberta and that are declared to be exotic wildlife by the regulations, or any part of such birds, mammals or other vertebrates;*

14 *“game bird” includes*

(x) any part of such birds;

15 *“game bird farm” means a place on which game birds are kept for the purposes of propagation, or for sale, gain, profit or pleasure;*

18 *“hunt” means chase, pursue, worry, follow after or on the trail of, search for, shoot at, stalk or lie in wait for, and any deliberate attempt made in any manner to capture, kill or injure, any wildlife whether or not any wildlife is captured, killed or injured;*

24 *“privately owned lands” means lands held under a certificate of title, agreement for sale, homestead lease, homestead sale, miscellaneous lease or cultivation lease issued under The Public Lands Act;*

25 *“pheasant shooting ground” means a parcel of land on which pen-reared pheasants are released for hunting;*

24 “privately owned lands” means

(i) lands held under a certificate of title by a person other than the Crown, or

(ii) lands held under an agreement for sale under which the Crown is the seller, or

(iii) lands or classes of lands held under leases or other dispositions from the Crown that are declared by the regulations under section 11, clause 45 to be privately owned lands;

(i) *by adding the following after clause 24:*

24.1 “problem wildlife” means wildlife designated as problem wildlife under section 94.2;

(j) *by repealing clause 25;*

(k) *as to clause 31 by striking out “trap-line” and by substituting “trapping area”;*

(l) *by repealing clause 33 and by substituting the following:*

33 “wildlife” means any mammal, amphibian, bird or reptile in Alberta, whether indigenous to Alberta or not, and includes the carcass or eggs and parts of the carcass or eggs of the mammal, amphibian, bird or reptile but does not include

(i) domestic cattle, swine, horses, fowl, sheep, cats or dogs or any other species designated in the regulations as domestic animals, or

(ii) a mammal, amphibian, bird or reptile declared by the regulations not to be wildlife for the purposes of this Act;

(m) *by adding the following after clause 34:*

34.1 “wildlife protection area” means a wildlife protection area established under section 8;

3 Section 6 is amended by striking out “and all fishery officers” and by substituting “, all park officers appointed under The Provincial Parks Act, 1974 and all fishery officers appointed under the Fisheries Act (Canada)”.

31 "trap-line" means the area or location defined and registered under this Act for the taking of fur-bearing animals and fur-bearing carnivores thereon by a licensed trapper;

33 "wildlife" means big game, game birds, birds of prey, fur-bearing animals, fur-bearing carnivores and any other species of vertebrates designated as wildlife by the regulations and includes the heads, hides or other parts thereof;

3 Section 6 presently reads as follows:

6 All members of the Royal Canadian Mounted Police, all forest officers and all fishery officers

(a) are ex officio wildlife officers, and

(b) have the same powers and duties as are conferred or imposed upon a wildlife officer by law.

4 Section 8 is repealed and the following substituted:

8(1) In this section, “landholder” means

(a) in the case of lands held under a certificate of title by a person other than the Crown,

(i) the purchaser of the fee simple estate in the land under an agreement for sale that is the subject of a caveat registered against the certificate of title to the land, or

(ii) in the absence of a person described in sub-clause (i), the person registered under *The Land Titles Act* as the owner of the fee simple estate in the land,

or

(b) in the case of lands held under an agreement for sale under which the Crown is the seller, the purchaser under the agreement, or

(c) in the case of any lands or classes of lands held under leases or other dispositions from the Crown that are declared by the regulations under section 11, clause 45 to be privately owned lands, the holder of the lease or disposition.

(2) The Lieutenant Governor in Council may make regulations

(a) designating any area of land to be a wildlife sanctuary, bird sanctuary, wildlife protection area or habitat management area;

(b) establishing classes of wildlife sanctuaries, bird sanctuaries, wildlife protection areas or habitat management areas;

(c) providing for the control and management of any class of wildlife sanctuary, bird sanctuary, wildlife protection area or habitat management area;

(d) fixing the terms and conditions under which and the purposes for which persons may be admitted to or excluded from any class of wildlife sanctuary, bird sanc-

4 Section 8, subsections (2) and (3) presently reads as follows:

(2) The Lieutenant Governor in Council may make regulations

(a) designating any area or areas to be wildlife sanctuaries or bird sanctuaries,

(b) providing for the control of wildlife sanctuaries or bird sanctuaries and for the protection of wildlife therein, and

(c) declaring that any area previously designated to be a wildlife sanctuary or, subject to the Transfer Agreement, that any area previously designated to be a bird sanctuary shall cease to exist as such.

(3) Notwithstanding subsection (2), no wildlife sanctuary or bird sanctuary shall be hereafter constituted upon land other than unoccupied public land unless in the opinion of the Minister it is expedient to do so.

tuary, wildlife protection area or habitat management area.

(3) No regulation under subsection (2)(c) or (d) applies to privately owned lands within any wildlife sanctuary, bird sanctuary, wildlife protection area or habitat management area designated after the commencement of this section that consists wholly or partly of privately owned lands unless

(a) the landholder agrees with the Minister that the regulation applies to the privately owned lands in the wildlife sanctuary, bird sanctuary, wildlife protection area or habitat management area, and

(b) the regulation expressly states that it applies to the privately owned lands in the wildlife sanctuary, bird sanctuary, wildlife protection area or habitat management area.

5 Section 11 is amended

(a) by repealing clause 1 and substituting the following:

1 for the designation of any species as domestic animals,

1.1 for the declaration of any mammal, amphibian, bird or reptile not to be wildlife for the purposes of this Act,

(b) by repealing clause 15 and substituting the following:

15 for the manner of identifying trapping areas and traps,

(c) by adding the following after clause 19:

19.1 for the designation of any sex, species or class of animal as trophy big game or non-trophy big game,

(d) as to clause 20 by adding after “trophy big game” wherever it occurs “or non-trophy big game”;

(e) as to clause 22 by striking out “big game or game bird” wherever it occurs and by substituting “wildlife”;

(f) as to clause 23 by striking out “and eggs” and by substituting “, eggs or any part or parts of eggs”;

(g) by repealing clauses 29, 30 and 31 and by substituting the following:

5. Section 11, clauses 1, 9, 13, 15, 20, 22, 23, 29, 30 and 31 presently read as follows:

11 The Lieutenant Governor in Council may make regulations providing

1 for the designation of any species of vertebrates as wildlife,

9 for the restriction of the operations under any class of licence, to

(i) any specified area, or

(ii) any specified time, or

(iii) any specified area and specified time,

13 for the establishment of areas in which big game, grouse or ptarmigan may be hunted on Sunday in that part of the Green Area lying north of the North Saskatchewan River,

15 designating the manner of identifying trap-lines and traps,

20 for the regulation of hunting of trophy big game and for establishing the minimum standards of trophy big game which may be hunted,

22 for the issue of a permit to a person killing or lawfully acquiring any big game or game bird for the transportation of the big game or game bird out of Alberta,

23 for the issue of permits for the collection and disposition, and the fees for possession, of any wildlife, and the nests and eggs of game birds and other birds,

29 for the licensing of fur dealers, tanners and furriers,

30 for the licensing of taxidermists,

31 for the licensing of dog trainers,

29 for the licensing of dog trainers, fur dealers, tanners, furriers and taxidermists and governing the terms and conditions subject to which they may carry on business,

30 for the purpose of section 71, the classes of specimens that may be prepared, bought and sold by taxidermists and the terms and conditions under which specimens of each class may be prepared, bought and sold,

31 for the licensing of wildlife farms and the terms and conditions under which they may carry on business,

(h) *by adding the following after clause 33:*

33.1 for the information in respect of wildlife to be furnished to the Minister by the holder of any licence or permit,

33.2 for the portions of wildlife carcasses to be furnished for examination to the Minister by the holder of any licence or permit,

(i) *by adding the following after clause 38.1:*

39 for the destruction and removal of problem wildlife,

40 the conditions under which wildlife may be captured alive and the methods that may be used in the capture,

41 for the establishment of terms and conditions under which persons may be permitted or denied access to any area used in the operation of a wildlife depredation control program under section 9(5),

42 for the establishment of terms and conditions under which firearms may be transported in or on any type of vehicle,

43 that the Minister may establish training and testing programs for hunters,

44 duties to be imposed on the holders of licences, permits and certificates,

45 for the declaration of any lands or classes of lands held under leases or other dispositions issued pursuant to

(i) *The Public Lands Act*, or

(ii) the regulations under *The Provincial Parks Act, 1974*, or

(iii) the regulations under *The Special Areas Act*, or

(iv) the regulations under section 12.2 of this Act,

to be privately owned lands, and

46 for the designation of any regulations under this section as regulations to which section 109(1) does not apply.

6 *Section 12 is amended by adding the following after clause (g):*

(g.1) as a condition precedent to the issue of any licence or permit, require the applicant to complete successfully a training and testing program for hunters if such a program has been established pursuant to the regulations,

7 *The following sections are added after section 12:*

12.1(1) The Minister may purchase or otherwise acquire any estate or interest in any land and any personal property in conjunction therewith for the purpose of any program or project relating to the conversation, protection or management of wildlife or of any wildlife sanctuary, bird sanctuary, wildlife protection area or habitat management area.

(2) The Lieutenant Governor in Council may authorize the Minister to acquire by expropriation on behalf of the Crown any estate or interest in land required by the Minister for any of the purposes referred to in subsection (1).

12.2(1) In this section “disposition” means an instrument entered into or issued by which any estate, right or interest in public land under the administration of the Minister by virtue of subsection (2) is conveyed by or on behalf of the Crown to any person.

(2) Land purchased, expropriated or otherwise acquired under section 12.1 and public land forming all or part of a wildlife sanctuary, bird sanctuary, wildlife protection area or habitat management area shall be under the administration of the Minister.

(3) The Lieutenant Governor in Council may make regulations

(a) authorizing the Minister to make dispositions of any kind prescribed in the regulations;

6 Hunter's training and testing program may be condition precedent to issue of licence or permit. Section 12, clause (g) presently reads as follows:

12 The Minister may from time to time

(g) as a condition precedent to the issue of any licence or permit in any case or class of cases, require the applicant therefor to furnish a bond or such other form of security as the Minister considers necessary to secure the observance of this Act and the regulations,

7 - 12.1 The Minister may purchase land for wildlife programs.

12.2 Where authorized by regulations the Minister may make dispositions of land under his administration.

(b) restricting the use to be made of lands that are the subject of dispositions;

(c) prescribing the duties and obligations of the persons to whom the dispositions are made in relation to the use and occupation of the lands by them;

(d) prescribing the terms and conditions to which dispositions are subject;

(e) prescribing the conditions under which the Minister may cancel a disposition;

(f) providing for the arbitration and settlement of any matter relating to the regulations or the dispositions made under them;

(g) establishing the procedure for the submission of applications for dispositions and the requirements to be met by applicants to render them eligible to obtain the disposition;

(h) prohibiting, or prohibiting without the consent of the Minister, assignments of any class of dispositions and, with respect to any class of dispositions that may not be assigned without the consent of the Minister, prescribing any conditions to be met before the consent may be given in a particular case;

(i) prescribing the rate of interest payable on money owing under any disposition that is not paid within one month from the date it is due;

(j) establishing a tariff of fees payable to the Minister

(i) for all applications, dispositions or renewals or reinstatements of dispositions, or

(ii) for applications for the consent of the Minister to assignments of dispositions.

(4) The Minister may delegate to any employee of the Government the power to make dispositions or classes of dispositions under subsection (3) on his behalf.

(5) No disposition may be made under subsection (3) which conveys an estate, right or interest in excess of 10 years in duration without the approval of the Lieutenant Governor in Council.

8 Section 25 is amended

8 Section 25(2), (3) and (5.1) presently read as follows:

(a) by repealing subsection (2) and substituting the following:

(2) For the purposes of subsection (1), a firearm is deemed to be loaded if

(a) in the case of a rifle, shotgun or similar weapon, there is a live shell or cartridge in the breech or chamber, or

(b) in the case of a muzzle-loaded gun operated by a flintlock, the pan contains powder, or

(c) in the case of a muzzle-loaded gun using percussion caps, a percussion cap is in place on the nipple.

(b) by adding the following after subsection (3):

(3.1) Notwithstanding subsection (3), the Minister may, with or without conditions, authorize any person to use an aircraft in capturing wildlife alive for the purpose of research or wildlife management.

(c) as to subsection (5.1) by striking out “developed road allowance in any county or municipal district” and by substituting “road allowance in any county or municipal district containing a road that is paved, oiled, graded or regularly maintained”,

(d) by adding the following after subsection (5.1):

(5.2) Subsections (4), (5) and (5.1) do not apply to any person engaged in a pest control program approved by the Minister.

9 Section 29 is amended by renumbering the section as subsection (1) and by adding the following subsection after renumbered subsection (1):

(2) No person shall hunt, take or trap wildlife

(a) in a manner that is dangerous to the safety of other persons,

(b) without due regard for the safety of other persons, or

(c) in a manner that causes or is likely to cause damage to a crop, livestock or other property.

(2) Any firearm having a live shell or cartridge in the breech or chamber shall be deemed to be loaded within the meaning of subsection (1).

(3) No person shall hunt from an aircraft.

(5.1) No person shall

(a) discharge a firearm from, or

(b) cause a projectile from a firearm to pass along or across,

a developed road allowance in any county or municipal district unless he is hunting game birds with a shotgun under the authority of a game bird licence issued pursuant to this Act or the regulations.

9 Section 29 presently reads as follows:

29 No person shall hunt, take or trap any wildlife while intoxicated or under the influence of a narcotic drug or while his ability to hunt is impaired by alcohol or a drug.

10 Section 31 is amended by renumbering the section as subsection (1) and by adding the following subsection after renumbered subsection (1):

(2) For the purposes of subsection (1), a highway as defined in *The Public Highways Development Act* bounded on both sides by a provincial park is part of a provincial park.

11 Section 32 is amended by adding the following after subsection (3):

(4) The Director may, in writing, authorize a licensed dog trainer to use pen-raised game birds during the times and in the places designated by the Director, for the purpose of training bird dogs or for dog trials authorized under section 33.

12 Section 41 is amended by repealing subsection (5) and substituting the following:

(5) Except as provided in section 38, no person shall apply for or acquire

(a) more than one of the same kind of licence for the hunting of big game for the same open season, or

(b) where there is more than one open season in any one fiscal year of the Government, more than one of the same kind of licence for the hunting of big game in any one fiscal year.

13 Section 45 is amended by renumbering the section as subsection (1) and by adding the following subsection:

(2) Notwithstanding subsection (1)(c), the Director may, in writing, authorize a person to use a trap or net in capturing wildlife alive, subject to such terms and conditions as the Director may prescribe.

14 Section 46 is amended

(a) by repealing subsection (2) and by substituting the following:

(2) Any person who kills or attempts to kill a dog that is in the act of pursuing or molesting any big game, fur-bearing animal or fur-bearing carnivore is not liable to the owner of the dog for the loss of the dog or any damage to the dog.

10 Section 31 presently reads:

31 No person shall hunt or trap wildlife in a provincial park established under The Provincial Parks Act unless he is authorized to do so by the regulations.

11 The Director may allow the use of pen-raised birds for the training of bird dogs.

12 Section 41, subsection (5) presently reads as follows:

(5) Except as provided in section 38, no person shall apply for or acquire more than one of the same kind of licence for the hunting of wildlife for the same open season.

13 Section 45, clause (c) presently reads as follows

45 No person shall for the purpose of hunting or taking big game set out, use or employ

(c) any traps or nets of any kind, or

14 Section 46, subsections (2) and (3) presently read as follows:

(2) Any person may at any time without incurring any liability kill a dog found running, pursuing or molesting big game.

(3) Subsections (1) and (2) do not apply in any case where the use of a dog for the hunting of cougar is permitted by the regulations.

(b) as to subsection (3) by adding “, coyote or fox” after “cougar”.

15 Section 47 is amended

(a) by adding the following after subsection (1):

(1.1) For the purposes of subsection (1), “residence” means a usual place of residence and does not include a cabin, hotel room, motel room, tent, trailer, camper trailer or any other accommodation of a temporary nature.

(b) as to subsection (3)(b)(ii) by adding “attached to the carcass” after “udder”.

16 Section 56 is repealed and the following substituted:

56 No person shall have in his possession, wilfully take or wilfully destroy the nest or the egg or part of either of any bird except as authorized by the regulations.

17 Section 58(1) is amended by striking out “coyote or skunk on privately owned land” and by substituting “coyote, wolf or skunk on privately owned land that he owns or occupies”.

18 Section 59(1)(a) is amended by adding “unless he is authorized to do so under the regulations” after “dam”.

19 Section 60 is amended by striking out “any birds, big game or parts thereof” and by substituting “the edible parts of any birds or big game”.

15 Section 47, subsections (1) and (3) presently read as follows:

47 (1) No person shall remove or destroy the distinctive evidence of the sex and species of any big game until he has

(a) conveyed the big game to his residence if he is a resident of the Province, or

(b) had it inspected by a wildlife officer or a game guardian.

(3) For the purpose of this section the distinctive evidence of the sex and species of big game is

(a) where the big game is a male animal

(i) the head with antlers or horns, or

(ii) the testicles or scrotum attached to the carcass,

or

(b) where the big game is a female animal

(i) the head, or

(ii) the udder.

16 Section 56 presently reads as follows:

56 No person shall at any time wilfully disturb, destroy or take the eggs or nest of any bird except as authorized by the regulations.

17 Section 58, subsection (1) presently reads as follows:

58(1) No person shall molest or destroy a den or usual place of habitation of any fur-bearing animal or fur-bearing carnivore other than that of a coyote or skunk on privately owned land.

18 Section 59, subsection (1), clause (a) presently reads as follows:

59(1) No person shall cut, spear, open, break, partially destroy or destroy

(a) a beaver house or beaver dam,

19 Section 60 presently reads as follows:

60 No person shall, for the purpose of trapping fur-bearing animals or fur-bearing carnivores, set out, use or employ in any manner any birds, big game or parts thereof protected by this Act, other than the feathers of game birds lawfully taken.

20 Sections 62, 64 and 65 are amended by striking out “trap-line” wherever it appears and substituting “trapping area”.

21 The following section is added after section 94.1:

94.2 Where the Lieutenant Governor in Council considers that any wildlife is or is likely to become a danger to human beings or destructive to any crop, livestock or property in all or any part of Alberta, he may by regulation declare the wildlife to be problem wildlife either throughout Alberta or in the part of Alberta described in the regulation.

22 Section 101 is amended by adding the following subsection after subsection (1):

(1.1) In any prosecution under this Act or the regulations, a certificate purporting to be signed by a meteorologist and stating the time of sunrise or the time of sunset in any area on any day shall be admitted in evidence as prima facie proof of the facts stated in the certificate, without proof of the signature or qualifications of the person signing the certificate.

23 Section 109 is amended by repealing subsection (2) and by substituting the following:

(2) Subsection (1) does not apply to convictions for a contravention of

(a) section 17, or

(b) section 18(1), or

(c) section 19, or

(d) section 20(2), or

(e) section 21, or

(f) section 22, or

(g) section 23, or

(h) section 25(1), (4), (5) or (5.1), or

(i) section 27(2) or (3), or

(j) section 30(3) or (4), or

20 The word “trap-line” is replaced.

21 Designation of problem wildlife by the Lieutenant Governor in Council.

22 Meteorologists’ certificate as evidence. The subsection is substantially the same as section 152(2) of The Highway Traffic Act, 1975.

23 Section 109 (1) and (2) presently read:

109(1) When any person is convicted of an offence against this Act or the regulations

(a) all licences and permits authorizing him to hunt and kill big game shall be deemed to be cancelled on the date of the conviction if the offence for which he is convicted relates to the exercise of any of the privileges granted to him by a licence or permit to hunt and kill any big game,

(b) all licences and permits authorizing him to hunt and kill game birds shall be deemed to be cancelled on the date of the conviction if the offence for which he is convicted relates to the exercise of any of the privileges granted to him by a licence or permit to hunt and kill any game bird,

(c) all licences, permits and certificates authorizing him to trap, hunt and kill fur-bearing animals shall be deemed to be cancelled on the date of the conviction if the offence for which he is convicted relates to the exercise of any of the privileges granted to him by a licence, permit or certificate to trap, hunt and kill any fur-bearing animals, and

(d) all licences and permits other than those referred to in clauses (a), (b) and (c) shall be deemed to be cancelled on the date of the conviction if the offence for which he is convicted relates to the exercise of any of the privileges granted to him by any licence or permit other than those referred to in clauses (a), (b) and (c).

(2) Subsection (1) does not apply to convictions for a contravention of section 25, subsection (1).

- (k) section 32(1), or
- (l) section 33(1), or
- (m) section 41(1) or (2), or
- (n) section 53, or
- (o) section 55, or
- (p) section 56, or
- (q) section 58(1), or
- (r) section 89.1(1)

or for a contravention of those regulations that are designated under section 11, clause 46 as regulations to which subsection (1) does not apply.

24 This Act comes into force on February 1, 1978.

