

Bill 50
Mr. Strang

BILL 50

2003

WILDLIFE AMENDMENT ACT, 2003

(Assented to , 2003)

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

Amends RSA 2000 cW-10

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

2 Section 1 is amended

(a) in subsection (1)

(i) by adding the following after clause (a.1):

(a.2) “authorization” means an instrument issued under
section 22.1(1);

(ii) by adding the following after clause (aa):

(aa.1) “recreational licence” means a licence of a type that
is prescribed as recreational;

(iii) in clause (cc) by adding “where used” before “in relation”;

(iv) by repealing clause (gg) and substituting the following:

(gg) “traffic” or “traffic in” means

(i) sell, buy, barter or trade, or offer to do so, or

- (ii) solicit, advertise, display or expose for sale, barter or trade or with a view to effecting a sale, barter or trade;

(b) in subsection (2)(c)

- (i) **by striking out** “, if that person was the operator of that farm” **and substituting** “or a wildlife or controlled animal from permit premises, if that person was the operator of that farm or those premises”;
- (ii) **by adding** “it by means not involving trapping” **after** “recapture”;
- (iii) **by adding** “other than by trapping” **after** “capture”.

3 Section 5(1) is amended by striking out “authorization or” **and substituting** “a permission or any”.

4 The heading to Part 3 is repealed and the following is substituted:

**Part 3
Licences, Permits and
Authorizations**

5 Section 19 is amended

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

(1.1) If the Minister has entered into an agreement under section 10 of the *Government Organization Act* with the government of Canada or of a province or territory or of another country or component part of another country that deals with the suspension or cancellation of the recreational licences in Alberta and that other jurisdiction of persons who have been convicted of offences relating to hunting, other than by means of traps, or whose right to hunt, other than by means

of traps, or to obtain or hold recreational licences, has been suspended or cancelled under the laws of each such jurisdiction, the Minister may

- (a) cancel or suspend an Alberta recreational licence held by such a person,
- (b) suspend such a person's right to obtain or hold such a recreational licence,
- (c) reinstate a recreational licence that has been so cancelled, or
- (d) remove such a suspension of or restore such a suspended right to obtain or hold a recreational licence.

(1.2) In construing subsection (1.1),

- (a) the terms "hunt", "hunting", "recreational licences" and "traps" are to be construed, to the extent that they relate to the jurisdiction other than Alberta, generally as applying to the equivalent terminology in the equivalent laws of that jurisdiction and in accordance with the laws of that jurisdiction, and
- (b) if there is no term equivalent to the term "recreational licence", the term is to be taken to refer to those licences or equivalent permissions that are as closely equivalent to recreational licences as the comparative contexts of the legislation of Alberta and the other jurisdiction allow.

(b) in subsection (2) by adding "subsection (1.1) or" after "under";

(c) by adding the following after subsection (2):

(2.1) Subsection (1)(d) does not apply in respect of a suspension under section 35(4)(b) of the *Fisheries (Alberta) Act*.

(d) in subsection (3) by striking out "or section 101 or 102" and substituting " , section 101 or 102 of this statute or section 35(4)(b) of the *Fisheries (Alberta) Act*".

6 The following is added after section 22:

Authorizations

22.1(1) Except as prescribed, the Minister may issue instruments, referred to in this Act as authorizations, of the prescribed kinds, that authorize prescribed activities that are consistent with this Act and that

- (a) are of a general kind that would normally require, but are not in fact authorized by, a licence or permit, or
- (b) require or would normally require both a licence and a permit.

(2) All the provisions of this statute that apply with respect to licences, except this section and those prescribed, and that have the potential to apply with respect to authorizations, apply with respect to authorizations.

(3) Where a person is to be charged with an offence against a provision that applies to authorizations by virtue of subsection (2) and the charge relates to an authorization rather than to a licence, then notwithstanding that the provision in itself refers only to a licence, it is sufficient if the wording of the charge refers only to a contravention of that provision as if subsection (2) had also been cited as part of the charge.

7 Section 24 is amended

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

(2) Subsection (1) does not apply to hunting that is specifically authorized by or under the *Agricultural Pests Act* and, to the extent that subsection (1) applies

- (a) with respect to guiding, it applies only to guiding for gain or reward, and
- (b) with respect to non-licence wildlife, it applies only to trapping.

(b) in subsection (3) by striking out “or has a prescribed authorization”.

8 Section 36(2)(c) is amended by striking out “a written authorization” and substituting “the written permission”.

9 Section 42(1) is amended by striking out “, or has an authorization referred to in section 24(3),”.

10 Section 48 is amended

(a) by renumbering it as section 48(1);

(b) in subsection (1)

(i) by striking out “, the person” and substituting “that licence holder”;

(ii) by adding “that the licence holder believes, on reasonable and probable grounds, has been set unlawfully” after “that area”;

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

(2) On the removal of a trap under subsection (1), the licence holder shall forthwith report the removal to a wildlife officer.

11 Section 50 is repealed and the following is substituted:

Dog training and trials

50 Except as prescribed, a person shall not train or hold field trials for dogs for the purpose of hunting wildlife, retrieving game birds or carrying out any activity that simulates the hunting of animals or the retrieving of birds, unless that person holds a permit so authorizing, and in any case shall not do so in contravention of any regulations made under section 103(1)(y).

12 Section 61 is amended by striking out “authorization” and substituting “permission”.

13 Section 62(4) is repealed and the following is substituted:

(4) Each single act described in section 1(1)(gg)(i) or (ii) done in relation to a wildlife animal constitutes a separate act of trafficking in wildlife.

14 Section 72(1)(b)(i) is amended by striking out “authorization” and substituting “authority”.

15 Section 74(1) is amended by adding “, or was used in, the commission of” after “evidence of”.

16 Section 81(4) is amended by striking out “authorization” and substituting “permission”.

17 The following is added after section 81:

Orders respecting wildlife attractants

81.1(1) A wildlife officer or wildlife guardian who considers that

- (a) wildlife animals are being attracted by an attractant to a place other than a private dwelling house, and
- (b) the health or safety of any person is or may be threatened owing to their presence,

may order the owner, occupier or person in charge of that place or the person responsible for the presence of the attractant to contain, move or remove the attractant or take such other action as is considered necessary to remove the threat, within the period specified in the order.

(2) The person to whom the order is given shall comply with it within the period specified in the order.

(3) The officer or guardian may, for the purpose of ensuring that the order is being or has been complied with, enter on any land or premises, other than a private dwelling house, for the purpose of searching for and inspecting the attractant.

(4) The person to whom the order was given shall provide all reasonable assistance to the officer or guardian conducting the search or inspection.

(5) An order may not be given under subsection (1) in respect of

- (a) the farming of agricultural crops that are standing or that are in swaths, sheaves, bales or stooks in a field,
- (b) agricultural crops that have been harvested and placed in storage, or
- (c) activities specifically related to caring for live animals held in captivity anywhere.

18 The following is added after section 82:

Warrants

82.1 Without limiting section 3 of the *Provincial Offences Procedure Act*, sections 184.2, 487.01, 487.092, 487.1, 492.1 and 492.2 of the *Criminal Code* (Canada) and all the other provisions of that Code that pertain to those sections except for any such provisions that restrict the kind of offences to which the provisions relate, apply in respect of offences against, and related proceedings under, this Act.

19 Section 86 is amended

- (a) **by renumbering it as section 86(1);**
- (b) **in subsection (1) by striking out “A” and substituting “Subject to subsection (2), a”;**
- (c) **by adding the following after subsection (1):**
 - (2) Without limiting the application of section 3 or any rule of law relating to the immunity of the Crown, subsection (1)

does not apply to a person who, at the time of the contravention,

- (a) is an employee of the Crown under the Minister's administration who is carrying out powers or duties involving wildlife research, wildlife management or the hunting of a subject animal, or
- (b) is a wildlife officer or wildlife guardian, or an individual acting on behalf of or being supervised by an officer or guardian, who is carrying out powers or duties involving investigations or undercover operations related to the enforcement of this Act.

20 Sections 92 and 93 are repealed and the following is substituted:

Penalties

92(1) A person who is convicted of

- (a) an offence specified in subsection (3), or
- (b) any offence involving a contravention of this Act where
 - (i) that person is a corporation, or
 - (ii) that person has previously been convicted of any offence involving a contravention of this Act and the offences for which the current conviction and a previous conviction were imposed occurred not more than 5 years apart,

is liable to a fine of not more than \$100 000 or to imprisonment for a term of not more than 2 years, or both.

(2) A person who is convicted of an offence against this Act under circumstances where subsection (1) does not apply is liable to a fine of not more than \$50 000 or to imprisonment for a term of not more than one year, or both.

(3) The offences referred to in subsection (1)(a) are offences

- (a) against section 35, 55(3) or 62(1) or (2),

- (b) against section 25(1), if the wildlife is an endangered animal, or
- (c) involving a contravention of any other provision of this Act that involves the hunting of a grizzly bear.

21 Section 95 is amended by striking out “, 93”.

22 Section 101(1) and (2) are amended by striking out “the licences of that person that are of a type prescribed as recreational” and substituting “that person’s recreational licences”.

23 Section 102 is amended

- (a) **by repealing subsection (1) and substituting the following:**

Suspension of licence and fishing licence on fine payment default

102(1) In addition to any cancellation or suspension under section 101 of this statute or section 35(4)(b) of the *Fisheries (Alberta) Act*, if

- (a) a person is convicted of an offence against this Act and ordered to pay a fine, and
- (b) the person does not pay the fine forthwith or within the time that the court has allowed for payment of the fine,

all of that person’s recreational licences and licences issued under the *Fisheries (Alberta) Act* that authorize sportfishing within the meaning of that Act, and the right to obtain or hold

any such instrument, are automatically suspended until such time as the Minister is satisfied that the fine has been paid.

- (b) **in subsection (3) by adding “of this statute or section 35(4)(b) of the *Fisheries (Alberta) Act*” after “101” wherever it occurs.**

24 Section 103(1) is amended

(a) by adding the following after clause (a):

(a.1) respecting authorizations;

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

(e) respecting the provision of guiding services, including restrictions on rights to enter into agreements to provide such services;

(c) in clause (y) by striking out “the purpose of hunting wildlife or retrieving game birds” and substituting “any purposes referred to in section 50”.

25 Section 106 is relocated to follow after section 105.

26 Section 104(2)(a) is amended by striking out “92(4)” and substituting “92(1)”.

**27 The *Livestock Industry Diversification Amendment Act, 2003* is amended in section 17(5) in the new section 61(2) by striking out “an authorization” and substituting “permission”.
28(1) Sections 2(a)(i), 3, 4, 5(c) and (d), 6, 7(b), 8, 9, 11, 12, 14, 16, 23 and 24 come into force on Proclamation.**

(2) Section 27 comes into force on the commencement of section 17(5) of the *Livestock Industry Diversification Amendment Act, 2003* (SA 2003 c26).

Explanatory Notes

1 Amends chapter W-10 of the Revised Statutes of Alberta 2000.

2 Section 1 presently reads in part:

1(1) In this Act,

(a) “animal” means a vertebrate, other than a human being or fish;

(a.1) “appointed officer” means a wildlife officer appointed under section 1.1(1) who is an employee of the Crown and subject to the Public Service Act;

(cc) “skin”, in relation to an animal, includes its hide or pelt, with or without the pelage, and, in the case of a bird, includes the plumage;

(gg) “traffic” means sell, buy, barter, solicit or trade or offer to do so;

(2) A person shall not be regarded as having hunted a subject animal

(c) where an authorized present or prospective game-production animal had escaped from a game animal production farm, if that person was the operator of that farm or an individual

employed or retained by that operator who, within a reasonable time following its escape, was engaged in attempting to recapture or in chasing it and who acted reasonably, using reasonable and generally accepted methods of humane capture, and in a manner that did not cause danger to other persons, wildlife or livestock or damage to property.

3 Section 5(1) presently reads:

5(1) An approval, authorization or other decision of the Minister, specific provision for which is made by this Act, may be made subject to any terms and conditions that the Minister considers appropriate.

4 The heading to Part 3 presently reads:

*Part 3
Licences and Permits*

5 Section 19 presently reads in part:

19(1) The Minister may, if the Minister considers that it is in the public interest to do so,

- (a) cancel or suspend a licence or permit,*
- (b) suspend a person's right to obtain or hold a licence or permit,*
- (c) reinstate a cancelled licence or permit, or*
- (d) remove a suspension of or restore a suspended right to obtain or hold a licence or permit.*

(2) Subsection (1)(c) and (d) do not apply in respect of a cancellation or suspension under section 101 or 102.

(3) Without limiting the applicability of any other provision of this Act against which an offence involving a licence or permit may be committed, a person who does anything

- (a) under the purported authority of a licence or permit that is under suspension, or*
- (b) while the person's right to obtain or hold a licence or permit is under suspension that would be authorized by that licence or permit if held and if that right were not under suspension,*

whether the suspension was imposed under this section or section 101 or 102, is guilty of an offence against this subsection if the holding of a valid licence or permit is necessary to make the act lawful.

6 Authorizations.

7 Section 24 presently reads:

24(1) Subject to subsection (3), a person shall not hunt wildlife unless the person holds a licence authorizing the person, or is authorized by or under a licence, to hunt wildlife of that kind.

(2) Subsection (1) does not apply to hunting that is specifically authorized by or under the Agricultural Pests Act, and subsection (1) applies only

(a) in respect of guiding, to guiding for gain or reward, and

(b) in respect of non-licence wildlife, to trapping.

(3) A person shall not for gain or reward guide another person hunting wildlife unless he or she holds a licence or has a prescribed authorization specifically authorizing that guiding.

8 Section 36(2) presently reads:

(2) Subsection (1) does not apply to a molestation, disturbance or destruction that is specifically authorized

(a) by or under the Agricultural Pests Act or the Water Act,

(b) by or under a licence authorizing the control of wildlife depredation or the collection of wildlife, or

(c) by regulations under section 103(1)(w) or a written authorization of the Minister.

9 Section 42(1) presently reads:

42(1) Unless otherwise prescribed, a person who is not a resident, called in this section a “client”, shall not hunt big game, wolf or coyote unless accompanied by another person who holds a licence, or has an authorization referred to in section 24(3), that authorizes that other person to guide the client.

10 Section 48 presently reads:

48 Where a person has a licence authorizing the person’s exclusive right to trap wildlife in a particular area, the person may remove or authorize another person to remove any trap found in that area.

11 Section 50 presently reads:

50 A person shall not, in a prescribed area, train or hold field trials for dogs for the purpose of hunting wildlife or retrieving game birds without a permit authorizing the person to do so.

12 Section 61 presently reads:

61 Without limiting section 9(3) of the Fur Farms Act, a person shall not release a live wildlife or controlled animal from captivity unless the person has the written authorization of the Minister to do so.

13 Section 62(4) presently reads:

(4) Each single act of selling, buying, bartering, soliciting or trading in wildlife or of offering to do so constitutes a separate act of trafficking in wildlife.

14 Section 72(1) presently reads:

72(1) A wildlife officer or wildlife guardian may, without obtaining a warrant, enter at any reasonable hour

(a) any premises that the officer or guardian has reason to believe are permit premises, or

(b) any other premises where

(i) any authorization is required by or under another statute, including a federal statute, to possess any subject animals or endangered organisms, or

(ii) a commercial service in relation to butchering, skinning, dressing or plucking dead subject animals is offered,

and where the officer or guardian has reason to believe that subject animals or endangered organisms may be found at the time of entry,

other than the living quarters of a private dwelling, for the purpose of inspecting the premises and any subject animals and endangered organisms found in them and any records required to be kept by or under this Act, the Livestock Industry Diversification Act or the Fur Farms Act.

15 Section 74(1) presently reads:

74(1) A wildlife officer or wildlife guardian may seize anything that the officer or guardian believes on reasonable and probable grounds may afford evidence of an offence against this Act.

16 Section 81(4) presently reads:

(4) No person shall, without the written authorization of an officer or guardian,

- (a) *enter or remain in an area that has been closed but not yet reopened under subsection (1), or*
- (b) *hunt in an area that has been closed but not yet reopened under subsection (2).*

17 Orders respecting wildlife attractants.

18 Warrants.

19 Section 86 presently reads:

86 A person who contravenes any provision of this Act is guilty of an offence.

20 Sections 92 and 93 presently read:

92(1) A person who is convicted of an offence against

- (a) *section 28, 45(1)(b), 51(1), 52(1), 53 or 55(1),*
- (b) *section 24(1), in respect of a licence other than one of a type referred to in subsection (2)(b) of this section, or*
- (c) *section 25(1), in respect of wildlife other than an endangered animal,*

is liable to a fine of not more than \$2500 or to imprisonment for a term of not more than one month, or both.

(2) A person who is convicted of an offence against

- (a) *section 19(3), 22, 24(3), 29, 33(1)(a) or (b), 39, 42(1) or 61,*

(b) section 24(1), in respect of a licence of a type that is in limited supply by virtue of a determination of the Minister under section 13(1), or

(c) section 32(1) or (2), in respect of a thing listed in sub-items 1 to 5 of Item 1 of the Schedule,

is liable to a fine of not more than \$5000 or to imprisonment for a term of not more than 2 months, or both.

(3) A person who is convicted of an offence against section 27(1) or 30 is liable to a fine of not more than \$10 000 or to imprisonment for a term of not more than 6 months, or both.

(4) A person who is convicted of an offence against

(a) section 25(1), if the wildlife is an endangered animal,

(b) section 35 or 55(3), or

(c) section 62(1) or (2), in respect of a game bird, big game animal or bird of prey or if the wildlife is an endangered animal,

is liable to a fine of not more than \$100 000 or to imprisonment for a term of not more than 6 months, or both.

93 A person who is convicted of any offence against this Act for which section 92 or the regulations made under section 104(1)(a), as affected, where applicable, by section 94, do not provide a penalty is liable to a fine of not more than \$2000 or to imprisonment for a term of not more than one month, or both.

21 Section 95 presently reads:

95 A court may, in addition to and separately from imposing any penalty under section 92, 93 or 94 or

the regulations made under section 104(1)(a) or any other provision of this Act, assess any penalty to or make any other order against a convicted person under any of sections 96 to 100.

22 Amendment consequential on section 2(a)(ii).

23 Section 102 presently reads:

102(1) In addition to any cancellation or suspension under section 101, if

- (a) a person is convicted of an offence against this Act and ordered to pay a fine, and*
- (b) the person does not pay the fine forthwith or within the time that the court has allowed for payment of the fine,*

all of the licences of that person that are of a type prescribed as recreational and that person's right to obtain or hold any such licence are automatically suspended until such time as the person pays the amount of the fine.

(2) A suspension under this section has effect

- (a) in the case where the court has allowed time for payment of the fine, from the last date on which payment can be made, or*
- (b) in any other case, from the date of conviction.*

(3) Where, in respect of any period, a licence or a right to apply for or hold a licence would, but for this subsection, be suspended under both this section and section 19 or 101, then, notwithstanding anything in those sections, the suspension under this section is to be treated as running first in point of time on its coming into effect and, if the suspension under section 19 or 101 is already in effect, the suspension under this section temporarily interrupts the running of that other suspension.

24 Section 103 presently reads in part:

103(1) The Minister may make regulations

(e) respecting

*(i) the provision of guiding services,
including restrictions on rights to enter
into agreements to provide such services,
and*

*(ii) authorizations prescribed in relation to
section 24(3),*

*and applying any provisions of this Act that
are applicable to licences to those
authorizations, with any modifications or
adaptations that are considered appropriate;*

*(y) respecting the training of and the holding of
field trials for dogs for the purpose of hunting
wildlife or retrieving game birds;*

25 Relocation of section 106.

26 Section 104(2) presently reads:

*(2) Regulations under subsection (1)(a) may not
provide for*

*(a) a specific penalty that is higher than that
provided for in section 92(4), or*

(b) a suspension for a period longer than 5 years.

27 Amendment of unproclaimed section 61(2)
which presently reads:

*(2) The Minister shall not give an authorization
under subsection (1) in respect of a domestic cervid.*

28 Coming into force.