

SENATE BILL NO. 397—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE DEPARTMENT OF WILDLIFE)

MARCH 29, 2005

Referred to Committee on Natural Resources

SUMMARY—Makes various changes relating to wildlife.
(BDR 45-324)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to wildlife; increasing the number of demerit points a person is allowed to accumulate before the Department of Wildlife is required to notify the person; increasing the period of suspension or revocation of a license, permit or privilege for the unlawful killing of certain big game; revising the provisions governing the disposition by the Department of seized or abandoned property; revising the provisions governing the employment and use of guides for wildlife activities; providing penalties; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 501 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2, 3 and 4 of this act.

3 **Sec. 2.** *An employee of the Department may take any wildlife*
4 *from any place, except private property without lawful authority,*
5 *and in any manner for any purpose determined by the Director to*
6 *be in the interest of conserving wildlife in this State if the taking of*
7 *the wildlife complies with the requirements established by the*



1 *United States Fish and Wildlife Service or any other agency of the*
2 *Federal Government.*

3 **Sec. 3. 1. If a person who holds:**

4 *(a) A license, tag or permit issued by the Department to engage*
5 *in any activity authorized or regulated by this title or by a*
6 *regulation adopted pursuant thereto; or*

7 *(b) A certificate of number issued by the Department,*
8 *↪ violates a written promise to appear pursuant to a citation that*
9 *was prepared manually or electronically for a violation of a*
10 *provision of this title, chapter 488 of NRS or any regulation*
11 *adopted pursuant thereto, the clerk of the court shall immediately*
12 *notify the Department on a form approved by the Department.*

13 **2. Upon receipt of notice from a court in this State of a**
14 *failure to appear, the Department shall notify the person by*
15 *certified mail that his license, tag, permit or certificate of number*
16 *is subject to suspension and allow him 30 days after the date of*
17 *mailing the notice to:*

18 *(a) Appear in court and obtain a dismissal of the citation or*
19 *complaint as provided by law;*

20 *(b) Appear in court and, if permitted by the court, make an*
21 *arrangement acceptable to the court to satisfy a judgment of*
22 *conviction; or*

23 *(c) Make a written request to the Department for a hearing.*

24 **3. If notified by a court within 30 days after the notice of a**
25 *failure to appear that a person has been allowed to make an*
26 *arrangement for the satisfaction of a judgment of conviction, the*
27 *Department shall remove the suspension from the record of the*
28 *person. If the person subsequently defaults on his arrangement*
29 *with the court, the court shall notify the Department which shall*
30 *immediately suspend the license, tag, permit or certificate of*
31 *number until the court notifies the Department that the*
32 *suspension may be removed.*

33 **4. The Department shall suspend the license, tag, permit or**
34 *certificate of number of a person 31 days after the Department*
35 *mails him the notice provided for in subsection 2, unless within*
36 *that period the Department receives a written request for a hearing*
37 *from the person or notice from the court on a form approved by*
38 *the Department that the person has appeared or the citation or*
39 *complaint has been dismissed. A license, tag, permit or certificate*
40 *of number so suspended remains suspended until further notice is*
41 *received from the court that the person has appeared or that the*
42 *case has been otherwise disposed of as provided by law.*



Sec. 4. 1. If a person who does not hold:

(a) A license, tag or permit issued by the Department to engage in any activity authorized or regulated by this title or by a regulation adopted pursuant thereto; or

(b) A certificate of number issued by the Department, violates a written promise to appear pursuant to a citation that was prepared manually or electronically for a violation of a provision of this title, chapter 488 of NRS or any regulation adopted pursuant thereto, the clerk of the court shall immediately notify the Department on a form approved by the Department.

2. Such a person may not apply to the Department for a license, tag, permit or certificate of number until the Department receives notice from the court that the person has appeared or that the case has been otherwise disposed of as provided by law.

Sec. 5. NRS 501.1816 is hereby amended to read as follows:

501.1816 1. If a person accumulates ~~16~~ 9 or more demerit points, but less than 12, the Department shall notify him of that fact by certified mail. If, after the Department mails the notice, the person presents proof to the Department that he has, after his most recent wildlife conviction, successfully completed a course of instruction in the responsibilities of hunters approved by the Department, the Department shall deduct 4 demerit points from his record. A person may attend a course of instruction in the responsibilities of hunters only once in 60 months for the purpose of reducing his demerit points.

2. If a person accumulates 12 or more demerit points before completing a course of instruction pursuant to subsection 1, the Department shall suspend or revoke any license, permit or privilege issued to him pursuant to this title.

3. Not later than 60 days after the Department determines that a person has accumulated 12 demerit points, the Department shall notify the person by certified mail that his privileges will be suspended or revoked. Except as otherwise provided in subsection 4, the Department shall suspend or revoke those privileges 30 days after it mails the notice.

4. Any person who receives the notice required by subsection 3 may submit to the Department a written request for a hearing before the Commission not later than 30 days after the receipt of the notice. If a written request for a hearing is received by the Department:

(a) The suspension or revocation of the license, permit or privilege is stayed until a determination is made by the Commission after the hearing.

(b) The hearing must be held within 60 days after the request is received.



1 5. The periods of suspension or revocation imposed pursuant to
2 this section must run concurrently. ~~No~~ *Except as otherwise*
3 *provided in this subsection, no* license, permit or privilege may be
4 suspended or revoked pursuant to this section for more than 3 years.
5 *The license, permit or privilege of a person who is convicted*
6 *pursuant to NRS 501.376 of:*

7 (a) *A gross misdemeanor may not be suspended or revoked for*
8 *more than 5 years; or*

9 (b) *A felony may not be suspended or revoked for more than*
10 *10 years.*

11 6. If the Department suspends or revokes a license, permit or
12 privilege pursuant to this section, the period of suspension or
13 revocation begins 30 days after notification pursuant to subsection 3
14 or a determination is made by the Commission pursuant to
15 subsection 4. After a person's license, permit or privilege is
16 suspended or revoked pursuant to this section, all demerit points
17 accumulated by that person must be cancelled.

18 **Sec. 6.** NRS 501.375 is hereby amended to read as follows:

19 501.375 1. Every game warden, sheriff and other peace
20 officer of this State and its political subdivisions shall enforce the
21 provisions of this title and seize any wildlife taken or held in
22 possession in violation of those provisions.

23 2. Such an officer may:

24 (a) With or without a warrant, conduct a reasonable search of
25 any camp, structure, aircraft, vessel, vehicle, box, game bag or other
26 package where he has reason to believe any wildlife taken or held in
27 violation of any of the provisions of this title is to be found, and, for
28 the purpose of such a search, may detain any aircraft, vessel or
29 vehicle for a reasonable time.

30 (b) Seize any such wildlife and any gun, ammunition, trap,
31 snare, tackle, or other device or equipment whose presence indicates
32 that a violation of any provision of this title has occurred. Except for
33 property described in NRS 501.3857, property seized pursuant to
34 this subsection may be held only for evidence and ~~must be returned~~
35 ~~when~~ *may be recovered by the owner within 1 year after it is* no
36 longer needed for that purpose. *The Department shall, within 30*
37 *days after the property is no longer needed, send a written notice*
38 *to the owner of the property that informs the owner of his right to*
39 *recover the property.*

40 3. A dwelling house may be searched only pursuant to a
41 warrant ~~or~~ *or as otherwise provided by law.*

42 **Sec. 7.** NRS 501.385 is hereby amended to read as follows:

43 501.385 Except as otherwise provided by specific statute:

44 1. Any person who:



(a) Performs an act or attempts to perform an act made unlawful or prohibited by a provision of this title;

(b) Willfully fails to perform an act required of him by a provision of this title;

(c) Obstructs, hinders, delays or otherwise interferes with any officer, employee or agent of the Department ~~that~~ :

(1) In the performance of any duty while enforcing or attempting to enforce any provision of this title ~~that~~ or any regulation adopted pursuant thereto; or

(2) While lawfully obtaining or attempting to obtain biological samples of wildlife, hunting, fishing or trapping data, or any other biological data or information relating to wildlife;

(d) Violates any order issued or regulation adopted by the Commission under the provisions of this title; or

(e) Having been granted a privilege or been licensed or permitted to do any act under the provisions of this title, exercises the grant, license or permit in a manner other than as specified,

is guilty of a misdemeanor. *An officer, employee or agent of the Department may not obtain or attempt to obtain biological samples of wildlife, hunting, fishing or trapping data, or any other biological data or information relating to wildlife on private property without the consent of the owner of the property.*

2. Every person who is guilty of a misdemeanor under this title shall be punished by a fine of not less than \$50 nor more than \$500, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.

Sec. 8. NRS 501.3857 is hereby amended to read as follows:

501.3857 Any gun, ammunition, trap, snare, vessel, vehicle, aircraft or other device or equipment used, or intended for use:

1. To facilitate the unlawful and intentional killing or possession of any big game mammal; ~~or~~

2. To hunt or kill a big game mammal by using information obtained as a result of the commission of an act prohibited by NRS 503.010 or a regulation of the Commission which prohibits the location of big game mammals for the purpose of hunting or killing by the use of:

(a) An aircraft, including, without limitation, any device that is used for navigation of, or flight in, the air;

(b) A hot air balloon or any other device that is lighter than air; or

(c) A satellite or any other device that orbits the earth and is equipped to produce images, or other similar devices; or

3. Knowingly to transport, sell, receive, acquire or purchase any big game mammal which is unlawfully killed or possessed,



1 ➔ is subject to forfeiture pursuant to NRS 179.1156 to 179.119,
2 inclusive.

3 **Sec. 9.** NRS 501.389 is hereby amended to read as follows:

4 501.389 1. Except for property described in NRS 501.3857,
5 equipment:

6 (a) Seized as evidence in accordance with NRS 501.375; and

7 (b) Not recovered by the owner within 1 year ~~from the date of~~
8 ~~seizure,~~ *after it is no longer needed for evidentiary purposes,*

9 ➔ becomes the property of the Department.

10 2. The Department ~~shall either sell such~~ *may:*

11 (a) *Sell the* equipment in accordance with the regulations
12 adopted pursuant to subsection 5 of NRS 333.220 ~~for retain such~~ ;

13 (b) *Donate equipment that is not dangerous to nonprofit*
14 *organizations which benefit children;*

15 (c) *Donate equipment that is not dangerous to children from*
16 *low-income families who attend fishing clinics sponsored by the*
17 *Department; or*

18 (d) *Retain the* equipment for authorized use by the Department.

19 ➔ All money received from ~~such sales~~ *the sale of equipment* must
20 be deposited with the State Treasurer for credit to the Wildlife
21 Account in the State General Fund.

22 3. Any person of lawful age and lawfully entitled to reside in
23 the United States may purchase the equipment, whether a prior
24 owner or not.

25 **Sec. 10.** NRS 502.120 is hereby amended to read as follows:

26 502.120 1. ~~Every~~ *Each* person required to have a license *or*
27 *permit* as provided in this ~~chapter~~ *title* who, while ~~hunting,~~
28 ~~trapping or fishing,~~ *engaged in any activity regulated by this title,*
29 refuses to exhibit the license ~~or~~ *or permit*, any wildlife which he
30 may have in his possession, or any weapon, ammunition, device or
31 apparatus in his possession which may be used for ~~hunting,~~
32 ~~trapping or fishing,~~ *any activity regulated by this title,* upon the
33 demand of any officer authorized to enforce the fish and game laws
34 of this State, is guilty of a misdemeanor.

35 2. ~~Every~~ *Each* person required to have a license *or permit* as
36 provided in this chapter who, while ~~hunting, trapping or fishing,~~
37 *engaged in any activity regulated by this title,* fails to have the
38 license *or permit* in his possession is guilty of a misdemeanor. A
39 person charged with violating this subsection may not be convicted
40 if he produces in court a license *or permit* previously issued to him
41 and valid at the time of his arrest.

42 **Sec. 11.** NRS 503.010 is hereby amended to read as follows:

43 503.010 1. Except as otherwise provided in *this section or*
44 subsection 2 of NRS 503.005, it is unlawful to molest, rally, stir up
45 or drive any game mammals or game birds with an aircraft,



1 helicopter or motor-driven vehicle, including a ~~{snowmobile,}~~
2 motorboat or sailboat.

3 2. Except as otherwise provided in this subsection, it is
4 unlawful to shoot at any game mammals or game birds with a
5 weapon from an aircraft, helicopter or motor-driven vehicle . ~~{~~
6 ~~including a snowmobile.}~~ A person who is a paraplegic, has had one
7 or both legs amputated or has suffered a paralysis of one or both
8 legs which severely impedes his walking may shoot from a stopped
9 motor vehicle which is not parked on the traveled portion of a public
10 highway, but he may not shoot from, over or across a highway or
11 road specified in NRS 503.175.

12 3. It is unlawful to spot or locate game mammals or game birds
13 with any kind of aircraft or helicopter and communicate ~~{this}~~ *that*
14 information , *within 24 hours after the aircraft or helicopter has*
15 *landed or in violation of a regulation of the Commission,* by any
16 means to a person on the ground for the purpose of hunting or
17 trapping. *The provisions of this subsection do not prohibit an*
18 *employee or agent of the Department from providing general*
19 *information to the public concerning the location of game birds or*
20 *game mammals.*

21 4. *It is unlawful to use any information obtained in violation*
22 *of the provisions of subsection 3 to hunt or kill game mammals or*
23 *game birds.*

24 5. It is unlawful to use a helicopter to transport game, hunters
25 or hunting equipment, except when the cargo or passengers , or both
26 , are loaded and unloaded at airports, airplane landing fields or
27 heliports, which have been established by a department or agency of
28 the Federal or State Government or by a county or municipal
29 government or when the loading or unloading is done in the course
30 of an emergency or search and rescue operation.

31 ~~{5. —For the purposes of}~~

32 6. *The provisions of subsection 1 do not apply to an employee*
33 *or agent of the Department who, while carrying out his duties,*
34 *conducts a survey of wildlife with the use of an aircraft.*

35 7. As used in this section, "game bird" does not include a raven
36 even if classified as a game bird pursuant to NRS 501.110.

37 **Sec. 12.** NRS 503.240 is hereby amended to read as follows:

38 503.240 1. It is unlawful for any person to hunt , *fish in*
39 *nonnavigable waters* or ~~{to}~~ trap upon ~~{for within any enclosed~~
40 ~~grounds which are}~~ *land which is* private property ~~{and}~~ *where the*
41 *person has been warned by the owner or occupant of the property*
42 *not to trespass in the manner prescribed in NRS 207.200, or* where
43 signs are displayed ~~{, as provided in NRS 207.200,}~~ forbidding
44 hunting , *trapping* or ~~{shooting,}~~ *fishing* without permission



1 obtained from the owner or ~~{person in possession of such enclosed~~
2 ~~grounds.}~~ *occupant of the private property.*

3 2. Any person using ~~{such}~~ *that private* property for hunting ,
4 *fishing* or trapping ~~{purposes}~~ shall comply with the provisions of
5 NRS 207.220.

6 **Sec. 13.** NRS 503.620 is hereby amended to read as follows:

7 503.620 Except as *otherwise* provided by this title ~~{}~~ *or a*
8 *regulation adopted pursuant thereto*, it is unlawful for any person
9 to hunt or ~~{possess}~~ *take* any dead or alive birds, nests of birds or
10 eggs of birds protected by that certain Act of Congress commonly
11 known and referred to as the Migratory Bird Treaty Act of July 3,
12 1918, as amended, 16 U.S.C. §§ 703 et seq., or protected by
13 ~~{commission regulation.}~~ *a regulation of the Commission.*

14 **Sec. 14.** NRS 504.390 is hereby amended to read as follows:

15 504.390 1. As used in this section, unless the context requires
16 otherwise, "guide" means to assist another person in hunting wild
17 mammals or wild birds and fishing and includes the transporting of
18 another person or his equipment to hunting and fishing locations
19 within a general hunting and fishing area whether or not the guide
20 determines the destination or course of travel.

21 2. ~~{Every}~~ *Each* person who provides guide service for
22 compensation or provides guide service as an incidental service to
23 customers of any commercial enterprise, whether a direct fee is
24 charged for the guide service or not, must obtain a master guide
25 license from the Department. Such a license must not be issued to
26 any person who has not reached 21 years of age.

27 3. ~~{Each}~~ *Except as otherwise provided in this subsection,*
28 *each* person who assists a person who is required to have a master
29 guide license and acts as a guide in the course of that activity must
30 obtain a subguide license from the Department. Such a license must
31 not be issued to any person who has not reached 18 years of age.
32 *The provisions of this subsection do not apply to a person who:*

33 (a) *Is employed by or assists a person who holds a master*
34 *guide license solely for the purpose of cooking, cutting wood or*
35 *caring for, grooming or saddling livestock; or*

36 (b) *Holds a master guide license which authorizes him to*
37 *provide services for the same species and in the same areas as the*
38 *guide who employs him or requests his assistance and has*
39 *submitted to the Department a notarized statement which indicates*
40 *that he is employed by or provides assistance to the guide. The*
41 *statement must be signed by both guides.*

42 4. Fees for master guide and subguide licenses must be as
43 provided in NRS 502.240.

44 5. Any person who desires a master guide license must apply
45 for the license on a form prescribed and furnished by the



1 Department. The application must contain the social security
2 number of the applicant and such other information as the
3 Commission may require by regulation. If that person was not
4 licensed as a master guide during the previous licensing year, his
5 application must be accompanied by a nonrefundable fee of \$1,500.

6 6. Any person who desires a subguide license must apply for
7 the license on a form prescribed and furnished by the Department. If
8 that person was not licensed as a subguide during the previous
9 licensing year, his application must be accompanied by a
10 nonrefundable fee of \$50.

11 7. ~~It is unlawful for~~ the holder of a master guide license
12 ~~operates with pack or riding animals, he shall also have a grazing or~~
13 ~~special use permit if he operates~~ *to operate* in any area where
14 ~~such~~ a *special use* permit is required ~~without first obtaining a~~
15 ~~permit unless he is employed by or providing assistance to a guide~~
16 ~~pursuant to subsection 3.~~

17 8. The holder of a master guide license shall maintain records
18 of the number of hunters and fishermen served, and any other
19 information which the Department may require concerning fish and
20 game taken by such persons. ~~Such~~ *The* information must be
21 furnished to the Department on request.

22 9. If any licensee under this section, or person served by a
23 licensee, is convicted of a violation of any provision of this title or
24 chapter 488 of NRS, the Commission may revoke the license of the
25 licensee and may refuse issuance of another license to the licensee
26 for a period not to exceed 5 years.

27 10. The Commission may adopt regulations covering the
28 conduct and operation of a guide service.

29 11. The Department may issue master guide and subguide
30 licenses ~~to be~~ *that are* valid only in certain ~~districts~~ *management*
31 *areas, management units or administrative regions* in such a
32 manner as may be determined by the regulations of the Commission.

33 **Sec. 15.** NRS 504.390 is hereby amended to read as follows:

34 504.390 1. As used in this section, unless the context requires
35 otherwise, "guide" means to assist another person in hunting wild
36 mammals or wild birds and fishing and includes the transporting of
37 another person or his equipment to hunting and fishing locations
38 within a general hunting and fishing area whether or not the guide
39 determines the destination or course of travel.

40 2. ~~Every~~ *Each* person who provides guide service for
41 compensation or provides guide service as an incidental service to
42 customers of any commercial enterprise, whether a direct fee is
43 charged for the guide service or not, must obtain a master guide
44 license from the Department. Such a license must not be issued to
45 any person who has not reached 21 years of age.



1 3. ~~Each~~ *Except as otherwise provided in this subsection,*
2 *each* person who assists a person who is required to have a master
3 guide license and acts as a guide in the course of that activity must
4 obtain a subguide license from the Department. Such a license must
5 not be issued to any person who has not reached 18 years of age.

6 *The provisions of this subsection do not apply to a person who:*

7 (a) *Is employed by or assists a person who holds a master*
8 *guide license solely for the purpose of cooking, cutting wood or*
9 *caring for, grooming or saddling livestock; or*

10 (b) *Holds a master guide license which authorizes him to*
11 *provide services for the same species and in the same areas as the*
12 *guide who employs him or requests his assistance and has*
13 *submitted to the Department a notarized statement which indicates*
14 *that he is employed by or provides assistance to the guide. The*
15 *statement must be signed by both guides.*

16 4. Fees for master guide and subguide licenses must be as
17 provided in NRS 502.240.

18 5. Any person who desires a master guide license must apply
19 for the license on a form prescribed and furnished by the
20 Department. The application must contain such information as the
21 Commission may require by regulation. If that person was not
22 licensed as a master guide during the previous licensing year, his
23 application must be accompanied by a nonrefundable fee of \$1,500.

24 6. Any person who desires a subguide license must apply for
25 the license on a form prescribed and furnished by the Department. If
26 that person was not licensed as a subguide during the previous
27 licensing year, his application must be accompanied by a
28 nonrefundable fee of \$50.

29 7. ~~It is unlawful for~~ the holder of a master guide license
30 ~~{operates with pack or riding animals, he shall also have a grazing or~~
31 ~~special use permit if he operates}~~ *to operate* in any area where
32 ~~{such}~~ a *special use* permit is required ~~{}~~ *without first obtaining a*
33 *permit unless he is employed by or providing assistance to a guide*
34 *pursuant to subsection 3.*

35 8. The holder of a master guide license shall maintain records
36 of the number of hunters and fishermen served, and any other
37 information which the Department may require concerning fish and
38 game taken by such persons. ~~{Such}~~ *The* information must be
39 furnished to the Department on request.

40 9. If any licensee under this section, or person served by a
41 licensee, is convicted of a violation of any provision of this title or
42 chapter 488 of NRS, the Commission may revoke the license of the
43 licensee and may refuse issuance of another license to the licensee
44 for a period not to exceed 5 years.



1 10. The Commission may adopt regulations covering the
2 conduct and operation of a guide service.

3 11. The Department may issue master guide and subguide
4 licenses ~~to be~~ *that are* valid only in certain ~~districts~~ *management*
5 *areas, management units or administrative regions* in such a
6 manner as may be determined by the regulations of the Commission.

7 **Sec. 16.** 1. This section and sections 1 to 14, inclusive, of
8 this act become effective on October 1, 2005.

9 2. Section 14 of this act expires by limitation on the date on
10 which the provisions of 42 U.S.C. § 666 requiring each state to
11 establish procedures under which the state has authority to withhold
12 or suspend, or to restrict the use of professional, occupational and
13 recreational licenses of persons who:

14 (a) Have failed to comply with a subpoena or warrant relating to
15 a proceeding to determine the paternity of a child or to establish or
16 enforce an obligation for the support of a child; or

17 (b) Are in arrears in the payment for the support of one or more
18 children,

19 ➤ are repealed by the Congress of the United States.

20 3. Section 15 of this act becomes effective on the date on
21 which the provisions of 42 U.S.C. § 666 requiring each state to
22 establish procedures under which the state has authority to withhold
23 or suspend, or to restrict the use of professional, occupational and
24 recreational licenses of persons who:

25 (a) Have failed to comply with a subpoena or warrant relating to
26 a proceeding to determine the paternity of a child or to establish or
27 enforce an obligation for the support of a child; or

28 (b) Are in arrears in the payment for the support of one or more
29 children,

30 ➤ are repealed by the Congress of the United States.



