

SENATE BILL NO. 82—COMMITTEE ON NATURAL RESOURCES

JANUARY 31, 2013

Referred to Committee on Natural Resources

SUMMARY—Prohibits the Board of Wildlife Commissioners from authorizing the hunting of black bears. (BDR 45-409)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

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

AN ACT relating to wildlife; classifying a black bear as a protected mammal; prohibiting the Board of Wildlife Commissioners from authorizing the hunting of black bears; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Board of Wildlife Commissioners to classify by regulation each species of wildlife within this State as a wild mammal, wild bird, fish, reptile, amphibian, mollusk or crustacean. Each species must be further classified as protected or unprotected. Any species of wildlife that is classified as protected may be designated as sensitive, threatened or endangered. If it is in the public interest to do so, the Commission may place a species of wildlife within another classification. (NRS 501.110) There is no open season on a species of wildlife which is classified as protected. (NRS 501.065) **Section 1** of this bill specifically classifies a black bear as a protected mammal.

Existing law: (1) requires the Commission to adopt regulations establishing seasons for hunting game mammals and the manner and means of taking wildlife; and (2) authorizes the Commission to adopt regulations setting forth the species of wildlife which may be hunted or trapped without a license or permit. (NRS 501.181, 502.010) **Sections 2 and 7** of this bill prohibit the Commission from authorizing the hunting of black bears or adopting regulations authorizing the hunting of black bears without a license or permit.



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

1 **Section 1.** NRS 501.110 is hereby amended to read as follows:
2 501.110 1. For the purposes of this title, wildlife must be
3 classified as follows:

4 (a) Wild mammals, which must be further classified as either
5 game mammals, fur-bearing mammals, protected mammals or
6 unprotected mammals.

7 (b) Wild birds, which must be further classified as either game
8 birds, protected birds or unprotected birds. Game birds must be
9 further classified as upland game birds or migratory game birds.

10 (c) Fish, which must be further classified as either game fish,
11 protected fish or unprotected fish.

12 (d) Reptiles, which must be further classified as either protected
13 reptiles or unprotected reptiles.

14 (e) Amphibians, which must be further classified as either game
15 amphibians, protected amphibians or unprotected amphibians.

16 (f) Mollusks, which must be further classified as either protected
17 mollusks or unprotected mollusks.

18 (g) Crustaceans, which must be further classified as either
19 protected crustaceans or unprotected crustaceans.

20 2. Protected wildlife may be further classified as either
21 sensitive, threatened or endangered.

22 3. ~~Each~~ *Except as otherwise provided in subsection 4, each*
23 species of wildlife must be placed in a classification by regulation of
24 the Commission and, when it is in the public interest to do so,
25 species may be moved from one classification to another.

26 4. *A black bear is a protected mammal.*

27 **Sec. 2.** NRS 501.181 is hereby amended to read as follows:

28 501.181 1. The Commission shall:

29 ~~(a)~~ (a) Establish broad policies for:

30 ~~(1)~~ (1) The protection, propagation, restoration, transplanting,
31 introduction and management of wildlife in this State.

32 ~~(2)~~ (2) The promotion of the safety of persons using or
33 property used in the operation of vessels on the waters of this State.

34 ~~(3)~~ (3) The promotion of uniformity of laws relating to policy
35 matters.

36 ~~(b)~~ (b) Guide the Department in its administration and
37 enforcement of the provisions of this title and of chapter 488 of
38 NRS by the establishment of such policies.

39 ~~(c)~~ (c) Establish policies for areas of interest including:

40 ~~(1)~~ (1) The management of big and small game mammals,
41 upland and migratory game birds, fur-bearing mammals, game fish,



1 and protected and unprotected mammals, birds, fish, reptiles and
2 amphibians.

3 ~~((b))~~ (2) The control of wildlife depredations.

4 ~~((e))~~ (3) The acquisition of lands, water rights and easements
5 and other property for the management, propagation, protection and
6 restoration of wildlife.

7 ~~((d))~~ (4) The entry, access to, and occupancy and use of such
8 property, including leases of grazing rights, sales of agricultural
9 products and requests by the Director to the State Land Registrar for
10 the sale of timber if the sale does not interfere with the use of the
11 property on which the timber is located for wildlife management or
12 for hunting or fishing thereon.

13 ~~((e))~~ (5) The control of nonresident hunters.

14 ~~((f))~~ (6) The introduction, transplanting or exporting of wildlife.

15 ~~((g))~~ (7) Cooperation with federal, state and local agencies on
16 wildlife and boating programs.

17 ~~((h))~~ (8) The revocation of licenses issued pursuant to this title
18 to any person who is convicted of a violation of any provision of
19 this title or any regulation adopted pursuant thereto.

20 ~~((4))~~ (d) Establish regulations necessary to carry out the
21 provisions of this title and of chapter 488 of NRS, including:

22 ~~((a) Seasons)~~

23 (1) *Except as otherwise provided in subsection 2, seasons*

24 for hunting game mammals and game birds, for hunting or trapping
25 fur-bearing mammals and for fishing, the daily and possession
26 limits, the manner and means of taking wildlife, including, but not
27 limited to, the sex, size or other physical differentiation for each
28 species, and, when necessary for management purposes, the
29 emergency closing or extending of a season, reducing or increasing
30 of the bag or possession limits on a species, or the closing of any
31 area to hunting, fishing or trapping. The regulations must be
32 established after first considering the recommendations of the
33 Department, the county advisory boards to manage wildlife and
34 others who wish to present their views at an open meeting. Any
35 regulations relating to the closure of a season must be based upon
36 scientific data concerning the management of wildlife. The data
37 upon which the regulations are based must be collected or
38 developed by the Department.

39 ~~((b))~~ (2) The manner of using, attaching, filling out, punching,
40 inspecting, validating or reporting tags.

41 ~~((e))~~ (3) The delineation of game management units embracing
42 contiguous territory located in more than one county, irrespective of
43 county boundary lines.

44 ~~((d))~~ (4) The number of licenses issued for big game and, if
45 necessary, other game species.



~~15-1~~ (e) Adopt regulations requiring the Department to make public, before official delivery, its proposed responses to any requests by federal agencies for its comment on drafts of statements concerning the environmental effect of proposed actions or regulations affecting public lands.

~~16-1~~ (f) Adopt regulations:

~~16-a-1~~ (1) Governing the provisions of the permit required by NRS 502.390 and for the issuance, renewal and revocation of such a permit.

~~16-b-1~~ (2) Establishing the method for determining the amount of an assessment, and the time and manner of payment, necessary for the collection of the assessment required by NRS 502.390.

~~17-1~~ (g) Designate those portions of wildlife management areas for big game mammals that are of special concern for the regulation of the importation, possession and propagation of alternative livestock pursuant to NRS 576.129.

~~18-1~~ (h) Adopt regulations governing the trapping of fur-bearing mammals in a residential area of a county whose population is 100,000 or more.

2. *The Commission shall not authorize the hunting of black bears.*

Sec. 3. NRS 501.356 is hereby amended to read as follows:

501.356 1. Money received by the Department from:

(a) The sale of licenses;

(b) Fees pursuant to the provisions of NRS 488.075 and 488.1795;

(c) Remittances from the State Treasurer pursuant to the provisions of NRS 365.535;

(d) Appropriations made by the Legislature; and

(e) All other sources, including, without limitation, the Federal Government, except money derived from the forfeiture of any property described in NRS 501.3857 or money deposited in the Wildlife Heritage Trust Account pursuant to NRS 501.3575, the Wildlife Trust Fund pursuant to NRS 501.3585, the Energy Planning and Conservation Fund created by NRS 701.630 or the Fund for the Recovery of Costs created by NRS 701.640,

➤ must be deposited with the State Treasurer for credit to the Wildlife Fund Account in the State General Fund.

2. The interest and income earned on the money in the Wildlife Fund Account, after deducting any applicable charges, must be credited to the Account.

3. Except as otherwise provided in subsection 4 and NRS 503.597, the Department may use money in the Wildlife Fund Account only to carry out the provisions of this title and chapter 488



1 of NRS and as provided in NRS 365.535, and the money must not
2 be diverted to any other use.

3 4. Except as otherwise provided in NRS 502.250 and 504.155,
4 all fees for the sale or issuance of stamps, tags, permits and licenses
5 that are required to be deposited in the Wildlife Fund Account
6 pursuant to the provisions of this title and any matching money
7 received by the Department from any source must be accounted for
8 separately and must be used:

9 (a) Only for the management of wildlife; and

10 (b) If the fee is for the sale or issuance of a license, permit or tag
11 other than a tag specified in subsection 5 or 6 of NRS 502.250,
12 under the guidance of the Commission pursuant to *paragraph (b) of*
13 subsection ~~2~~ *1* of NRS 501.181.

14 **Sec. 4.** NRS 501.376 is hereby amended to read as follows:

15 501.376 1. Except as otherwise provided in this section, a
16 person shall not intentionally kill or aid and abet another person to
17 kill a bighorn sheep, mountain goat, elk, deer, pronghorn antelope

18 ~~† or~~ *† or* mountain lion : ~~† or black bear.†~~

19 (a) Outside of the prescribed season set by the Commission for
20 the lawful hunting of that animal;

21 (b) Through the use of an aircraft or helicopter in violation of
22 NRS 503.010;

23 (c) By a method other than the method prescribed on the tag
24 issued by the Department for hunting that animal;

25 (d) Knowingly during a time other than:

26 (1) The time of day set by the Commission for hunting that
27 animal pursuant to NRS 503.140; or

28 (2) If the Commission has not set such a time, between
29 sunrise and sunset as determined pursuant to that section; or

30 (e) Without a valid tag issued by the Department for hunting
31 that animal. A tag issued for hunting any animal specified in this
32 subsection is not valid if knowingly used by a person:

33 (1) Other than the person specified on the tag;

34 (2) Outside of the management area or other area specified
35 on the tag; or

36 (3) If the tag was obtained by a false or fraudulent
37 representation.

38 2. The provisions of subsection 1 do not prohibit the killing of
39 an animal specified in subsection 1 if:

40 (a) The killing of the animal is necessary to protect the life or
41 property of any person in imminent danger of being attacked by the
42 animal; or

43 (b) The animal killed was not the intended target of the person
44 who killed the animal and the killing of the animal which was the
45 intended target would not violate the provisions of subsection 1.



3. A person who violates the provisions of subsection 1 shall be punished for a category E felony as provided in NRS 193.130 or, if the court reduces the penalty pursuant to this subsection, for a gross misdemeanor. In determining whether to reduce the penalty, the court shall consider:

- (a) The nature of the offense;
- (b) The circumstances surrounding the offense;
- (c) The defendant's understanding and appreciation of the gravity of the offense;
- (d) The attitude of the defendant towards the offense; and
- (e) The general objectives of sentencing.

4. A person shall not willfully possess any animal specified in subsection 1 if the person knows the animal was killed in violation of subsection 1 or the circumstances should have caused a reasonable person to know that the animal was killed in violation of subsection 1.

5. A person who violates the provisions of subsection 4 is guilty of a gross misdemeanor.

Sec. 5. NRS 501.3855 is hereby amended to read as follows:

501.3855 1. In addition to the penalties provided for the violation of any of the provisions of this title, every person who:

(a) Unlawfully kills or possesses a trophy big game mammal is liable for a civil penalty of not less than \$5,000 nor more than \$30,000; or

(b) Except as otherwise provided in paragraph (a), unlawfully kills or possesses a big game mammal, moose, bobcat, swan or eagle is liable for a civil penalty of not less than \$250 but less than \$5,000.

2. For the unlawful killing or possession of fish or wildlife not included in subsection 1, a person is liable for a civil penalty of not less than \$25 nor more than \$1,000.

3. For hunting, fishing or trapping without a valid license, tag or permit, a person is liable for a civil penalty of not less than \$50 nor more than the amount of the fee for the license, tag or permit required for the activity in which the person engaged.

4. Every court, before whom a defendant is convicted of unlawfully killing or possessing any wildlife, shall order the defendant to pay the civil penalty in the amount stated in this section for each mammal, bird or fish unlawfully killed or possessed. The court shall fix the manner and time of payment.

5. The Department may attempt to collect all penalties and installments that are in default in any manner provided by law for the enforcement of a judgment.

6. If a person who is ordered to pay a civil penalty pursuant to this section fails to do so within 90 days after the date set forth in



1 the order, the Department may suspend, revoke, or refuse to issue or
2 renew any license, tag, permit, certificate or other document or
3 privilege otherwise available to the person pursuant to this title
4 or chapter 488 of NRS.

5 7. Each court that receives money pursuant to the provisions of
6 this section shall forthwith remit the money to the Department
7 which shall deposit the money with the State Treasurer for credit to
8 the Wildlife Fund Account in the State General Fund.

9 8. As used in this section, "trophy big game mammal" means a
10 mule deer with an outside antler measurement of at least 24 inches,
11 a bighorn sheep of any species with at least one horn exceeding a
12 half curl, a Rocky Mountain elk with at least six antler points on one
13 antler, a pronghorn antelope with at least one horn which is more
14 than 14 inches in length ~~or~~ **or** a mountain goat . ~~for a black bear.~~ As
15 used in this subsection:

16 (a) "Antler" means any bony growth originating from the
17 pedicle portion of the skull of a big game mammal that is annually
18 cast and regenerated as part of the annual life cycle of the big game
19 mammal.

20 (b) "Antler point" means a projection which is at least 1 inch in
21 length with the length exceeding the width of its base, excluding the
22 first point on the main beam commonly known as the eye guard on
23 mule deer.

24 (c) "Horn exceeding a half curl" means a horn tip that has grown
25 at least through 180 degrees of a circle determined by establishing a
26 parallel reference line from the base of the horn and measuring the
27 horn tip to determine whether the horn tip has grown at least to the
28 projection of the reference line.

29 (d) "Outside antler measurement" means the perpendicular
30 measurement at right angles to the center line of the skull of a deer
31 at the widest point between the main antler beams or the antler
32 points off the main antler beams.

33 **Sec. 6.** NRS 501.388 is hereby amended to read as follows:

34 501.388 1. The Commission may, in addition to any
35 suspension, revocation or other penalty imposed pursuant to any
36 other provision of this title:

37 (a) Revoke any license of any person who is convicted of a
38 violation of NRS 503.050, and may refuse to issue any new license
39 to the convicted person for any period not to exceed 5 years after the
40 date of the conviction; and

41 (b) Revoke any license of any person who is convicted of
42 unlawfully killing or possessing a bighorn sheep, mountain goat,
43 elk, deer, pronghorn antelope ~~or~~ **or** mountain lion ~~for a black bear~~ in
44 violation of NRS 501.376, and may:



(1) Refuse to issue any new license to the convicted person for any period not to exceed 3 years; and

(2) Revoke that person's privilege to apply for any big game tag for a period not to exceed 10 years.

2. The court in which the conviction is had shall require the immediate surrender of all such licenses and shall forward them to the Commission.

Sec. 7. NRS 502.010 is hereby amended to read as follows:

502.010 1. A person who hunts or fishes any wildlife without having first procured a license or permit to do so, as provided in this title, is guilty of a misdemeanor, except that:

(a) A license to hunt or fish is not required of a resident of this State who is under 12 years of age, unless required for the issuance of tags as prescribed in this title or by the regulations of the Commission.

(b) A license to fish is not required of a nonresident of this State who is under 12 years of age, but the number of fish taken by the nonresident must not exceed 50 percent of the daily creel and possession limits as provided by law.

(c) Except as otherwise provided in subsection 5 or 6 of NRS 202.300 and NRS 502.066, it is unlawful for any child who is under 18 years of age to hunt any wildlife with any firearm, unless the child is accompanied at all times by the child's parent or guardian or is accompanied at all times by an adult person authorized by the child's parent or guardian to have control or custody of the child to hunt if the authorized person is also licensed to hunt.

(d) A child under 12 years of age, whether accompanied by a qualified person or not, shall not hunt big game in the State of Nevada. This section does not prohibit any child from accompanying an adult licensed to hunt.

(e) The Commission may adopt regulations setting forth:

(1) ~~The~~ *Except as otherwise provided in subsection 2 of NRS 501.181, the* species of wildlife which may be hunted or trapped without a license or permit; or

(2) The circumstances under which a person may fish without a license, permit or stamp in a lake or pond that is located entirely on private property and is stocked with lawfully acquired fish.

(f) The Commission may declare 1 day per year as a day upon which persons may fish without a license to do so.

2. This section does not apply to the protection of persons or property from unprotected wildlife on or in the immediate vicinity of home or ranch premises.



Sec. 8. NRS 502.060 is hereby amended to read as follows:

502.060 1. A person applying for and procuring a license, tag or permit, as provided in this chapter, shall give to the license agent the person's name and residence address, which must be entered by the license agent, manually or electronically in a record specified by the Department, together with the date of issuance and a description of the person. If a child under the age of 18 years is applying for a license to hunt, the child's parent or legal guardian must sign the application and an attached statement acknowledging that the parent or legal guardian has been advised of the provisions of NRS 41.472.

2. Except as otherwise provided in subsection 3, any person who makes any false statement or furnishes false information to obtain any license, tag or permit issued pursuant to the provisions of this title is guilty of a misdemeanor.

3. Any person who makes any false statement or furnishes false information to obtain any big game tag issued pursuant to the provisions of this title is guilty of a gross misdemeanor.

4. It is unlawful for any person to hunt, fish or trap using any hunting, fishing or trapping license which is invalid by reason of expiration or a false statement made to obtain the license.

5. Any person convicted of violating the provisions of subsection 2 or 3 forfeits any bonus point or other increased opportunity to be awarded a tag in a subsequent drawing conducted for that tag if the bonus point or other increased opportunity was acquired by the false statement or false information.

6. As used in this section, "big game tag" means a tag permitting a person to hunt any species of pronghorn antelope, ~~bear,~~ deer, mountain goat, mountain lion, bighorn sheep or elk.

Sec. 9. NRS 502.130 is hereby amended to read as follows:

502.130 1. In addition to the regular hunting licenses and trapping licenses provided for in this chapter, additional licenses, to be known as tags, are required to hunt any deer, elk, antelope ~~or~~ **or** mountain sheep. ~~for bear,~~

2. Whenever it is determined by the Commission that it is necessary for correct management:

(a) Tags also may be required to hunt, trap or fish for any other species of wildlife. The Commission may limit the number of tags to be used in a management area.

(b) Permits and seals may be required to hunt, trap, fish or to possess any species of wildlife.

3. The Commission shall set the fee for all permits and seals issued pursuant to paragraph (b) of subsection 2.



Sec. 10. NRS 502.219 is hereby amended to read as follows:

502.219 1. A program is hereby established for the issuance of additional big game tags each year to be known as "Dream Tags." The program must provide:

(a) For the issuance of Dream Tags to either a resident or nonresident of this State;

(b) For the issuance of one Dream Tag for each species of big game for which 50 or more tags were available under the quota established for the species by the Commission during the previous year; and

(c) For the sale of Dream Tags to a nonprofit organization pursuant to this section.

2. The Department shall administer the program and shall take such actions as the Department determines are necessary to carry out the provisions of this section and NRS 502.222 and 502.225.

3. A nonprofit organization established through the Community Foundation of Western Nevada which is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3) and which has as its principal purpose the preservation, protection, management or restoration of wildlife and its habitat may purchase such Dream Tags from the Department, at prices established by the Department, subject to the following conditions:

(a) The nonprofit organization must agree to award the Dream Tags by raffle, with unlimited chances to be sold for \$5 each to persons who purchase a resource enhancement stamp pursuant to NRS 502.222.

(b) The nonprofit organization must agree to enter into a contract with a private entity that is approved by the Department which requires that the private entity agree to act as the agent of the nonprofit organization to sell chances to win Dream Tags, conduct any required drawing for Dream Tags and issue Dream Tags. For the purposes of this paragraph, a private entity that has entered into a contract with the Department pursuant to NRS 502.175 to conduct a drawing and to award and issue tags or permits as established by the Commission shall be deemed to be approved by the Department.

(c) All money received by the nonprofit organization from the proceeds of the Dream Tag raffle, less the cost of the Dream Tags purchased by the nonprofit organization and any administrative costs charged by the Community Foundation of Western Nevada, must be used for the preservation, protection, management or restoration of game and its habitat, as determined by the Advisory Board on Dream Tags created by NRS 502.225.

4. All money received by the Department for Dream Tags pursuant to this section must be deposited with the State Treasurer for credit to the Wildlife Fund Account in the State General Fund.



* S B 8 2 *

5. The nonprofit organization shall, on or before February 1 of each year, report to the Department and the Interim Finance Committee concerning the Dream Tag program, including, without limitation:

(a) The number of Dream Tags issued during the immediately preceding calendar year;

(b) The total amount of money paid to the Department for Dream Tags during the immediately preceding calendar year;

(c) The total amount of money received by the nonprofit organization from the proceeds of the Dream Tag raffle, the amount of such money expended by the nonprofit organization and a description of each project for which the money was spent; and

(d) Any recommendations concerning the program or necessary legislation.

6. As used in this section, "big game tag" means a tag permitting a person to hunt any species of pronghorn antelope, ~~bear,~~ deer, mountain goat, mountain lion, bighorn sheep or elk.

Sec. 11. NRS 502.253 is hereby amended to read as follows:

502.253 1. In addition to any fee charged and collected pursuant to NRS 502.250, a fee of \$3 must be charged for processing each application for a game tag, the revenue from which must be accounted for separately, deposited with the State Treasurer for credit to the Wildlife Fund Account in the State General Fund and used by the Department for costs related to:

(a) Programs for the management and control of injurious predatory wildlife;

(b) Wildlife management activities relating to the protection of nonpredatory game animals, sensitive wildlife species and related wildlife habitat;

(c) Conducting research, as needed, to determine successful techniques for managing and controlling predatory wildlife, including studies necessary to ensure effective programs for the management and control of injurious predatory wildlife; and

(d) Programs for the education of the general public concerning the management and control of predatory wildlife.

2. The Department of Wildlife is hereby authorized to expend a portion of the money collected pursuant to subsection 1 to enable the State Department of Agriculture to develop and carry out the programs described in subsection 1.

3. Any program developed or wildlife management activity or research conducted pursuant to this section must be developed or conducted under the guidance of the Commission pursuant to *paragraph (b) of* subsection ~~2~~ *1* of NRS 501.181.



* S B 8 2 *

- 1 4. The money in the Wildlife Fund Account remains in the
2 Account and does not revert to the State General Fund at the end of
3 any fiscal year.
4 **Sec. 12.** This act becomes effective upon passage and
5 approval.

