

Amendment No. 267

Assembly Amendment to Assembly Bill No. 83 Proposed by: Assemblywoman Swank Amendment Box: Consistent with Amendment No. 97. Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	(BDR 45-210)
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ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



ASSEMBLY BILL NO. 83—COMMITTEE ON NATURAL
RESOURCES, AGRICULTURE, AND MINING

(ON BEHALF OF THE DEPARTMENT OF WILDLIFE)

PREFILED NOVEMBER 21, 2018

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Makes various changes to provisions ~~governing~~ relating to
wildlife. (BDR 45-210)

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; authorizing an employee of the Department of
Wildlife to take any wildlife in the interest of public safety under
certain circumstances; authorizing the Department to expend money
from the Wildlife Heritage Account; providing certain protections to
moose under certain circumstances; limiting a certain exemption that
allowed a person to kill certain animals if necessary to protect
property; revising provisions governing the issuance of a resident
license, tag or permit; deleting the requirement that a person purchase a
resource enhancement stamp to be eligible to participate in a Dream
Tag raffle; authorizing a person to donate money voluntarily to the
Wildlife Account in the State General Fund by purchasing a resource
enhancement stamp; expanding the circumstances considered unlawful
harassment of wildlife; clarifying the exemption from the prohibition
against placing or setting a trap, snare or similar device within a certain
distance from a public road or highway within this State; providing
penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law authorizes an employee of the Department of Wildlife to take any wildlife,
2 except on private property without lawful authority, for any purpose determined by the
3 Director of the Department to be in the interest of conserving wildlife in this State, if the
4 taking of the wildlife complies with certain federal requirements. (NRS 501.3525) **Section 1**
5 of this bill expands that authority to allow an employee of the Department to take any wildlife
6 for any purpose determined by the Director to be in the interest of public safety.

Existing law creates the Wildlife Heritage Account in the State General Fund and requires the Department of Wildlife to use the money in the Account for: (1) the protection, propagation, restoration, transplantation, introduction and management of wildlife; and (2) the management and control of predatory wildlife in this State. The Department may annually expend from the Account not more than 75 percent of the money deposited in the Account during the previous year and the total amount of interest earned on the money in the Account during that year. (NRS 501.3575) Section 1.5 of this bill authorizes the Department, at any time, to expend from the Account any amount of money in the Account which exceeds \$5,000,000.

Existing law prohibits a person from intentionally killing or aiding and abetting another person in killing a bighorn sheep, mountain goat, elk, deer, pronghorn antelope, mountain lion or black bear in certain ways, during certain times or without a tag. A person who violates that prohibition is subject to punishment for a category E felony or a gross misdemeanor, as determined by the sentencing court. (NRS 501.376) **Sections 2 and 4** of this bill add moose to the list of animals to which that prohibition applies. Existing law provides certain exemptions from the prohibition. **Section 2** deletes the exemption for killing such an animal when necessary to protect the property of a person who is in imminent danger of being attacked by the animal but leaves the exemption that applies when the killing of the animal is necessary to protect the life of a person.

Existing law establishes the requirements for when a person is considered a resident of this State for the purpose of obtaining resident licenses, tags or permits. (NRS 502.015) **Section 5** of this bill revises the requirements to provide that the person must not have purchased or applied for any hunting, fishing or trapping privilege or entitlement conditional upon residency from another state, country or province.

Existing law establishes a program for the issuance of additional big game tags by raffle each year known as "Dream Tags." To be eligible to participate in a Dream Tag raffle, a person is required to purchase a resource enhancement stamp for a fee of \$10. Any fee received from the sale of a resource enhancement stamp must be deposited in the Wildlife Account in the State General Fund and used only for the protection, propagation and management of wildlife. (NRS 501.356, 502.219, 502.222) **Sections 6 and 7** of this bill delete the requirement for a person to purchase a resource enhancement stamp in order to participate in a Dream Tag raffle. Instead, **section 7** authorizes a person to donate money voluntarily to the Wildlife Account by purchasing a resource enhancement stamp.

Under existing law, it is unlawful to harass any game mammals or game birds with an aircraft, helicopter or motor-driven vehicle, including a motor boat or sailboat. (NRS 503.010) **Section 8** of this bill instead makes it unlawful to engage in such harassment by any means and adds to the examples harassment with a firearm, horse, light or noisemaker. **Section 8** further clarifies that harassment through the use of a manned or unmanned aircraft is unlawful. **Section 3** of this bill makes a conforming change.

Under existing law, it is unlawful for any person, company or corporation to place or set any trap, snare or similar device within 200 feet of any public road or highway within this State. (NRS 503.580) Existing law also: (1) specifies that the term "person" does not include a government, governmental agency or political subdivision of a government; and (2) authorizes an employee of the Department of Wildlife to take any wildlife, except on private property without lawful authority, for any purpose determined by the Director of the Department to be in the interest of conserving wildlife in this State. (NRS 0.039, 501.3525) **Section 9** of this bill clarifies that the prohibition against placing or setting a trap, snare or similar device within 200 feet of any public road or highway within this State does not apply to an employee or agent of the Department.

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

Section 1. NRS 501.3525 is hereby amended to read as follows:

501.3525 An employee of the Department may take any wildlife from any place, except private property without lawful authority, and in any manner for any

purpose determined by the Director to be in the interest of *public safety or* conserving wildlife in this State if the taking of the wildlife complies with the requirements established by the United States Fish and Wildlife Service or any other agency of the Federal Government.

Sec. 1.5. NRS 501.3575 is hereby amended to read as follows:

501.3575 1. The Wildlife Heritage Account is hereby created in the State General Fund. The money in the Account must be used by the Department as provided in this section for:

(a) The protection, propagation, restoration, transplanted, introduction and management of any game fish, game mammal, game bird or fur-bearing mammal in this State; and

(b) The management and control of predatory wildlife in this State.

2. Except as otherwise provided in NRS 502.250, money received by the Department from:

(a) A bid, auction, Silver State Tag Drawing or Partnership in Wildlife Drawing conducted pursuant to NRS 502.250; and

(b) A gift of money made by any person to the Wildlife Heritage Account, must be deposited with the State Treasurer for credit to the Account.

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

4. ~~The~~ Except as otherwise provided in this subsection, the Department may annually expend from the Wildlife Heritage Account an amount of money not greater than 75 percent of the money deposited in the Account pursuant to subsection 2 during the previous year and the total amount of interest earned on the money in the Account during the previous year. In addition, the Department may, at any time, expend from the Account any portion of the amount of money in the Account which exceeds \$5,000,000. The Commission shall review and approve expenditures from the Account. No money may be expended from the Account without the prior approval of the Commission.

5. The Commission shall administer the provisions of this section and may adopt any regulations necessary for that purpose.

Sec. 2. NRS 501.376 is hereby amended to read as follows:

501.376 1. Except as otherwise provided in this section, a person shall not intentionally kill or aid and abet another person to kill a bighorn sheep, mountain goat, elk, deer, *moose*, pronghorn antelope, mountain lion or black bear:

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

(b) Through the use of ~~[an aircraft or helicopter]~~ *any means used to harass any game mammals or game birds* in violation of NRS 503.010;

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

(d) Knowingly during a time other than:

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

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

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

(1) Except as otherwise provided by the regulations adopted by the Commission pursuant to subsection 9 of NRS 501.181, other than the person specified on the tag;

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

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

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

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

(b) The animal killed was not the intended target of the person who killed the animal and the killing of the animal which was the 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. 3. 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;

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) ~~A~~ **A manned or unmanned** 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,

is subject to forfeiture pursuant to NRS 179.1156 to 179.1205, inclusive.

Sec. 4. NRS 501.388 is hereby amended to read as follows:

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

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

(b) Revoke any license of any person who is convicted of unlawfully killing or possessing a bighorn sheep, mountain goat, elk, deer, **moose**, pronghorn antelope, mountain lion or black bear in 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

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

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

5 **Sec. 5.** NRS 502.015 is hereby amended to read as follows:

6 502.015 1. For the purpose of issuing and using resident licenses, tags or
7 permits pursuant to this chapter, a person is considered to be a resident of the State
8 of Nevada if:

9 (a) The person is a citizen of, or is lawfully entitled to remain in, the United
10 States; and

11 (b) During the 6 months next preceding the person's application to the
12 Department for a license, tag or permit, the person:

13 (1) Maintained his or her principal and permanent residence in this State;

14 (2) Was physically present in this State, except for temporary absences;
15 and

16 (3) Did not purchase or apply for any ~~resident license, tag or permit to~~
17 ~~hunt, fish or trap in~~ *hunting, fishing or trapping privilege or entitlement*
18 *conditional upon residency from* another state, country or province.

19 2. A person who does not maintain his or her principal and permanent
20 residence in Nevada but who is attending an institution of higher learning in this
21 State as a full-time student is eligible for a resident license, tag or permit if, during
22 the 6 months next preceding the person's application to the Department for a
23 license, tag or permit, the person:

24 (a) Was physically present in Nevada, except for temporary trips outside of the
25 State; and

26 (b) Did not purchase or apply for any ~~resident license, tag or permit to hunt,~~
27 ~~fish or trap in~~ *hunting, fishing or trapping privilege or entitlement conditional*
28 *upon residency from* another state, country or province.

29 3. A resident license, tag or permit issued by this State is void if the person to
30 whom it was issued establishes or maintains his or her principal and permanent
31 residence in and obtains any hunting, fishing or trapping privilege or entitlement
32 conditional on residency from another state, country or province.

33 4. As used in this section, "principal and permanent residence" means a place
34 where a person is legally domiciled and maintains a permanent habitation in which
35 the person lives and to which the person intends to return when he or she leaves the
36 state in which the permanent habitation is located. The term does not include
37 merely owning a residence in a state.

38 **Sec. 6.** NRS 502.219 is hereby amended to read as follows:

39 502.219 1. A program is hereby established for the issuance of additional
40 big game tags each year to be known as "Dream Tags." The program must provide:

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

43 (b) For the issuance of one Dream Tag for each species of big game for which
44 50 or more tags were available under the quota established for the species by the
45 Commission during the previous year; and

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

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

51 3. A nonprofit organization established through the Community Foundation
52 of Western Nevada which is exempt from taxation pursuant to 26 U.S.C. §
53 501(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 Account in the State General Fund.

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. 7. NRS 502.222 is hereby amended to read as follows:

502.222 1. ~~{To be eligible to participate in the Dream Tag raffle, a}~~ Any person ~~{must purchase}~~ *may voluntarily donate money to the Wildlife Account in the State General Fund by purchasing* a resource enhancement stamp.

2. Resource enhancement stamps must be sold for a fee of \$10 each by the Department and by persons authorized by the Department to sell the stamps. All money received by the Department for resource enhancement stamps pursuant to this section must be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund.

3. The Department shall determine the form of the stamps.

Sec. 8. NRS 503.010 is hereby amended to read as follows:

503.010 1. Except as otherwise provided in this section or subsection 2 of NRS 503.005, it is unlawful to harass any game mammals or game birds *by any means, including, without limitation,* with ~~{an}~~ *a manned or unmanned* aircraft,

1 *firearm*, helicopter ~~[or]~~, *horse, light, motorboat*, motor-driven vehicle ~~[, including~~
2 ~~a motorboat]~~, *noisemaker* or sailboat.

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

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

17 4. It is unlawful to use any information obtained in violation of the provisions
18 of subsection 3 to hunt or kill game mammals or game birds.

19 5. It is unlawful to use a helicopter to transport game, hunters or hunting
20 equipment, except when:

21 (a) The cargo or passengers, or both, are loaded and unloaded at airports,
22 airplane landing fields or heliports, which have been established by a department or
23 agency of the Federal or State Government or by a county or municipal government
24 and which are accessible by a public road; or

25 (b) The loading or unloading is done in the course of an emergency or search
26 and rescue operation.

27 6. It is unlawful to:

28 (a) Use any information obtained from a radio signal or other transmission
29 received from any transmitting device;

30 (b) Make use of equipment designed to receive a radio signal or other
31 transmission from a transmitting device; or

32 (c) Use any location information obtained from records maintained by the
33 Department within 1 year after the date on which the information was collected,
34 including, without limitation, records of information received from a transmitting
35 device,

36 ➤ to harass or take any game mammal, game bird or other wildlife.

37 7. It is unlawful to make use of equipment designed to receive a radio signal
38 or other transmission from a transmitting device for any purpose without written
39 authorization of the Department.

40 8. The provisions of subsection 1 do not apply to an employee or agent of the
41 Department who, while carrying out his or her duties, conducts a survey of wildlife
42 with the use of an aircraft.

43 9. As used in this section:

44 (a) "Aircraft" includes, without limitation, any device that is used for
45 navigation of, or flight in, the air.

46 (b) "Game bird" does not include a raven, even if classified as a game bird
47 pursuant to NRS 501.110.

48 (c) "Harass" means to molest, chase, rally, concentrate, herd, intercept, torment
49 or drive.

50 (d) "Transmitting device" means any collar or other device which is attached to
51 any game mammal, game bird or other wildlife or which is placed for the express
52 purpose of detecting any game mammal, game bird or other wildlife and emits an

1 electronic signal or uses radio telemetry or a satellite transmission to determine the
2 location of the game mammal, game bird or other wildlife.

3 **Sec. 9.** NRS 503.580 is hereby amended to read as follows:

4 503.580 1. For the purposes of this section, “public road or highway”
5 means:

6 (a) A highway designated as a United States highway.

7 (b) A highway designated as a state highway pursuant to the provisions of NRS
8 408.285.

9 (c) A main or general county road as defined by NRS 403.170.

10 2. It is unlawful for any person, company or corporation to place or set any
11 trap, snare or similar device used for the purpose of trapping mammals within 200
12 feet of any public road or highway within this State.

13 3. This section does not ~~prevent~~ :

14 (a) *Prevent* the placing or setting of any trap, snare or similar device inside,
15 along or near a fence which may be situated less than 200 feet from any public road
16 or highway upon privately owned lands.

17 (b) *Apply to placing or setting a trap, snare or similar device by an employee*
18 *or agent of the Department.*

19 **Sec. 10.** This act becomes effective on July 1, 2019.