

PART III. GAME COMMISSION

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Authority

The provisions of this Part III issued under the Game Law (34 P. S. §§ 1311.101—1311.1502) (Repealed); amended under the Game Law (34 P. S. §§ 1311.101—1311.1502) (Repealed); and the Game and Wildlife Code, 34 Pa.C.S. §§ 101—2965, unless otherwise noted.

Cross References

This part cited in 17 Pa. Code § 11.204 (relating to application of Fish and Boat Commission rules and Game Commission rules); 17 Pa. Code § 21.107 (relating to hunting, trapping and shooting); and 58 Pa. Code § 53.5 (relating to hunting and trapping).

CHAPTER 131. PRELIMINARY PROVISIONS

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§ 131.1. Scope.

- (a) This part implements the act.
- (b) This part and the act are interrelated, and they shall be construed with reference to each other.
- (c) Game and wildlife may be hunted, trapped, taken, possessed, transported, shipped, exported or imported in accordance with the act and this part.

Source

The provisions of this § 131.1 amended May 26, 1972, effective May 27, 1972, 2 Pa.B. 933; amended September 16, 1983, effective September 17, 1983, 13 Pa.B. 2839; amended June 19, 1987, effective July 1, 1987, 17 Pa.B. 2464. Immediately preceding text appears at serial pages (95271) to (95272).

Notes of Decisions*Discretion*

The Pennsylvania Game Commission's "failure" to make findings of fact regarding whether or not there were any mitigating circumstances was a matter within the Commission's discretion even though the Commission cited no standard or regulation with respect to what would constitute mitigating circumstances. *Marich Jr. v. Game Commission*, 676 A.2d 1325 (Pa. Cmwlth. 1996).

§ 131.2. Definitions.

In addition to the definitions contained in section 102 of the act (relating to definitions), the following words and terms, when used in this part or in the act, have the following meanings, unless the context clearly indicates otherwise:

Act—Title 34 of the *Pennsylvania Consolidated Statutes* (relating to Game and Wildlife Code).

Aggregate ammunition capacity—A firearm's total cumulative ammunition capacity that includes the ammunition capacity of both the chamber and magazine.

Air gun—A firearm operated by air or gas cylinder by which a projectile can be discharged or propelled.

Antlered deer—

(i) In Wildlife Management Units 1A, 1B, 2A, 2B and 2D, a deer having three or more points on one antler, not including brow tines which is the point immediately above the antler burr.

(ii) In all other wildlife management units, a deer having three or more points to one antler.

(iii) In all wildlife management units, junior license holders, disabled person permit (to use a vehicle) holders and residents serving on active duty in the United States Armed Forces, or in the United States Coast Guard, a deer having two or more points to one antler, or with one antler 3 inches or more in length.

Antlered elk—An elk having at least one spike visible above the hairline.

Antlerless deer—A deer without antlers, or a deer with antlers both of which are less than 3 inches in length.

Antlerless elk—An elk without antlers, or an elk with no spike visible above the hairline.

Arrow—A projectile shot from a bow with an overall length exceeding the brace height of the bow with fletching designed only for guidance at the aft end and a broadhead mounted on the fore end. No electronic device may be a part of or attached to the arrow. No device, material or system capable of causing damage or injury to the animal in excess of that inflicted by the cutting edges of the broadhead may be a part of or attached to any arrow.

Beekeeper's agent—A person who accepts the responsibility of bees, hives and related equipment in the absence of the owner, and who is willing and able to reset disrupted hives, maintain fencing where present and report damage done by bears to the nearest available Commission officer as soon as practical,

but, in any event, within 10 days of the damage. The agent shall be domiciled within 300 yards of the beehives.

Bow—In addition to the definition in section 102 of the act, a device for launching an arrow, which derives its propulsive energy solely from the bending and recovery of two limbs. The energy used to propel the arrow may not be derived from another source. These limitations may not exclude the mechanical leverage advantage provided by eccentric wheels or cams so long as the available energy stored in the bent limbs of the bow is the sole result of a single, continuous and direct pulling effort by the shooter. The bowstring shall be drawn, held and released as a direct and conscious action of the shooter. Release shall be accomplished by either relaxing the tension of the fingers or triggering the release action of a manually held release aid.

Broadhead—A fixed or mechanical tip affixed to the fore end of an arrow or bolt having sharpened cutting edges consisting of metal or naturally occurring stone.

Closed season—Periods of the calendar year and hours during which it is unlawful to take game or wildlife.

Commission—The Game Commission of the Commonwealth.

Crossbow—A device consisting of a bow fixed transversely on a stock, the string of which is released by a trigger mechanism, has a mechanical safety and propels an arrow.

Crossbow bolt—An arrow propelled by a crossbow.

Decoy—For the purpose of section 2308(b)(6) of the act (relating to unlawful devices and methods), an artificial representation or facsimile of a bird or animal used to attract other birds or animals. The term does not include living birds or animals.

Deputy Game Commission officer—A deputy wildlife conservation officer.

Director—The Executive Director of the Commission.

Driving—An act accomplished when one or more persons chase or flush, or attempt to chase or flush, wildlife towards or in the general direction of other persons, or when two or more persons travel in the same general direction to chase or flush, or attempt to chase or flush, wildlife into view.

Early small game hunting season—A designated period when the only resident small game which may be hunted and taken are woodchucks, squirrels and grouse.

Game Commission officer—A wildlife conservation officer.

Import—To bring or have transported into this Commonwealth.

Institutions of higher learning—Colleges and universities accredited by the Department of Education.

Meat or animal products—For the purpose of section 2361(a)(13) of the act (relating to unlawful acts concerning taking of furbearers), meat or animal products include artificial representations or facsimiles.

Muzzleloading firearm—

(i) A firearm designed and manufactured to be loaded with loose ammunition components (projectile and propellant charge) from the muzzle or forward, open end of the firearm's barrel.

(ii) The term includes breech-loading rifles and handguns that fire loose ammunition components comparable to a muzzleloading firearm.

(iii) The term does not authorize a firearm that accepts cartridge ammunition.

Plugged shotgun—For the purpose of section 2308(a)(4) of the act, any shotgun containing a one-piece plug, stop or filler in the magazine to reduce ammunition capacity that is incapable of removal without disassembling the shotgun or magazine.

Point—An antler projection at least 1 inch in length from base to tip. The main beam tip shall be counted a point regardless of length.

Protected birds—See § 133.2 (relating to protected birds).

Protected deer—A deer not defined as an antlered deer or an antlerless deer.

Protected mammals—See § 133.1 (relating to protected mammals).

Regular firearms deer season—The designated period of time when deer may be hunted and taken by any person who possesses a General Hunting License or a General Hunting License and Antlerless License only.

Regular small game hunting season—The designated period of time when resident small game species may be hunted and taken.

Special firearms deer season—Any firearms deer season, except muzzle-loader season, that precedes the regular firearms deer season.

Sustained yield—As used in section 546(b)(2) of the act (relating to limitation on expenditures for deterrent fencing), continuous and planned forest production through accepted forestry management practices.

Venison—For the purpose of section 2312 of the act (relating to buying and selling game), any meat derived from a white-tailed deer.

Authority

The provisions of this § 131.2 amended under the Game and Wildlife Code, 34 Pa.C.S. §§ 2102, 2722(g)(2) and 2901(b).

Source

The provisions of this § 131.2 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 249; amended June 19, 1987, effective July 1, 1987, 17 Pa.B. 2464; amended December 11, 1987, effective December 12, 1987, 17 Pa.B. 5129; amended May 29, 1992, effective July 1, 1992, 22 Pa.B. 2839; amended June 1, 2001, effective June 2, 2001, 31 Pa.B. 2791; amended August 9, 2002, effective August 10, 2002, 32 Pa.B. 3945; amended October 24, 2003, effective October 25, 2003, 33 Pa.B. 5314; amended June 16, 2006, effective June 17, 2006, 36 Pa.B. 2971; amended May 27, 2011, effective May 28, 2011, 41 Pa.B. 2687; amended August 10, 2012, effective August 11, 2012, 42 Pa.B. 5213; amended May 23, 2014, effective May 24, 2014, 44 Pa.B. 3091; amended May 12, 2017, effective May 13, 2017, 47 Pa.B. 2710. Immediately preceding text appears at serial pages (380996) and (371981) to (371982).

Cross References

This section cited in 58 Pa. Code § 143.243 (relating to general); 58 Pa. Code § 147.121 (relating to definitions); 58 Pa. Code § 147.662 (relating to application); 58 Pa. Code § 147.722 (relating to definitions); and 58 Pa. Code § 147.804 (relating to general).

§ 131.3. Enforcement.

In addition to Wildlife Conservation Officers or Deputy Wildlife Conservation Officers, the Director designates and empowers the following persons to enforce the act and this part while acting within the scope of their employment and jurisdiction.

- (1) Pennsylvania State Police.
- (2) Pennsylvania Waterways Conservation Officers.
- (3) Pennsylvania Deputy Waterways Conservation Officers.
- (4) Pennsylvania Department of Conservation and Natural Resources personnel with enforcement powers.
- (5) Commonwealth, municipality or Federal agency employes with written approval of the Director.

Authority

The provisions of this § 131.3 amended under the Game and Wildlife Code, 34 Pa.C.S. § 2102(a).

Source

The provisions of this § 131.3 adopted June 19, 1987, effective July 1, 1987, 17 Pa.B. 2464; amended November 16, 2012, effective November 17, 2012, 42 Pa.B. 7106. Immediately preceding text appears at serial pages (363050) and (328383).

§ 131.4. Civil liability for wildlife killed.

(a) If a voluntary settlement cannot be reached, the Director or an officer designated by the Director may bring a civil action in the name of the Commission against a person killing or unlawfully in possession of wildlife, or part thereof, and may seek to recover an amount not less than the penalties prescribed in section 2307(e) of the act (relating to unlawful taking or possession of game or wildlife).

(b) A verdict or judgment recovered by the Commission in the action may not be for less than the sum fixed in subsection (a). The action for damages may be joined with an action for possession. Recovery may be for possession as well as damage.

(c) The pendency or determination of an action for damages or payment of a judgment, or the pendency or determination of a criminal prosecution for the same taking, wounding, killing or possession, is not a bar to the other; nor does either affect the right of seizure under other provisions of laws relating to game and wildlife.

(d) Funds recovered under this section shall be placed in the Game Fund.

Authority

The provisions of this § 131.4 amended under the Game and Wildlife Code, 34 Pa.C.S. §§ 2102(a) and 2307(e).

Source

The provisions of this § 131.4 adopted June 19, 1987, effective July 1, 1987, 17 Pa.B. 2464; amended June 1, 2001, effective June 2, 2001, 31 Pa.B. 2791. Immediately preceding text appears at serial pages (267197) to (267198).

Notes of Decisions*License Revocation Proper*

The petitioner testified that he read both the Pennsylvania and Federal regulations on a regular basis; therefore, petitioner had four opportunities to read the Federal regulations and thereby realize that the seven duck bonus had been eliminated. Therefore, petitioner's arguments that the regulations were vague or confusing was rejected and petitioner's hunting license was properly revoked for one year. *Marich Jr. v. Game Commission*, 676 A.2d 1325 (Pa. Cmwlth. 1996).

§ 131.5. Chemical tests.

(a) The devices, equipment and training required for administering chemical tests, test procedures and accuracy certifications for breath test devices that apply to prosecutions under 75 Pa.C.S. (relating to vehicles) apply to prosecutions under section 2502 of the act (relating to chemical tests to determine amount of alcohol).

(b) The Commission approves the devices, equipment and training required for administering chemical tests, test procedures and accuracy certifications for breath test devices prescribed jointly by the Department of Health and Department of Transportation at 67 Pa. Code Chapter 77 (relating to equipment and training required for administering chemical tests; test procedures and accuracy certification for breath test devices) and prescribed by the Department of Health at 28 Pa. Code §§ 5.101—5.104 (relating to equipment to determine blood alcohol content under the Vehicle Code and the Fish and Boat Code) and in other regulations.

Source

The provisions of this § 131.5 adopted June 19, 1987, effective July 1, 1987, 17 Pa.B. 2464.

§ 131.6. Administration of police powers by wildlife conservation officers.**(a) General.**

(1) Section 901(a)(17) of the act (relating to powers and duties of enforcement officers) authorizes wildlife conservation officers, when acting within the scope of their employment, to pursue, apprehend or arrest any individual suspected of violating any provision of 18 Pa.C.S. (relating to Crimes Code) or any other offense classified as a misdemeanor or felony and, in addition, to serve and execute warrants and subpoenas for these offenses.

(2) For the purposes of enforcement of the authority granted by section 901(a)(17) of the act, "when acting within the scope of their employment" means that period of time that a wildlife conservation officer is currently engaged in any activity the officer is employed to perform at the time and places the officer is authorized to perform the activity.

(b) *Limitation.* A wildlife conservation officer will arrest or take other appropriate enforcement action pursuant to the authority vested by section 901(a)(17) of the act only in one or more of the following circumstances:

- (1) The offense occurs in the officer's presence.
- (2) The offense occurs on lands or waters owned, leased or otherwise controlled by the Commission.
- (3) The offense arises out of Commission operations.
- (4) Another law enforcement agency has reasonably requested the assistance.

Authority

The provisions of this § 131.6 amended under the Game and Wildlife Code, 34 Pa.C.S. §§ 322 and 901(a)(17).

Source

The provisions of this § 131.6 adopted May 3, 1991, effective July 1, 1991, 21 Pa.B. 2009; amended June 29, 2007, effective June 30, 2007, 37 Pa.B. 2947; amended May 27, 2016, effective May 28, 2016, 46 Pa.B. 2664. Immediately preceding text appears at serial pages (364464) and (379461).

Notes of Decisions

Scope of Employment

Game Commission officers were acting within the scope of their duty when they encountered the driver in a dump truck parked diagonally across a public highway and observed his colorable conduct, as they were en route on an official call at the time; furthermore, the officers were conscious of the limits of their authority and took care not to overstep those limits, where they did not arrest the driver, but merely detained him during an investigatory stop until the State Police arrived to administer sobriety testing and execute the resulting arrest. *Commonwealth v. Schatzel*, 724 A.2d 362 (Pa. Super. 1998), appeal denied 1999 Pa. LEXIS 2204 (Pa. July 26, 1999).

Where a wildlife conservation officer acting within the scope of his employment by driving to deposit a deer carcass to the game lands building encountered a vehicle ahead of him which had crossed the center line once by the time the officer reached the entrance to the game lands building, the officer did not possess sufficient information, while acting within the scope of his employment, to arrest the driver for driving under the influence, and the officer's subsequent observations after following the vehicle past the game lands building were made after the officer ceased acting within the scope of his employment. *Commonwealth v. Carlson*, 705 A.2d 468 (Pa. Super. 1998).

§ 131.7. Use of the field acknowledgment of guilt in Philadelphia County.

The field acknowledgment of guilt may be used by district wildlife conservation officers to accept penalties on guilty pleas for summary violations of the act and its attendant regulations in Philadelphia County for both resident and nonresident offenders.

Source

The provisions of this § 131.7 adopted August 13, 1999, effective August 14, 1999, 29 Pa.B. 4351.

§ 131.8. Replacement costs for wildlife killed.

Under section 925(i) of the act (relating to jurisdiction and penalties), in addition to any fines and costs imposed for violations of the act and this title, any person who unlawfully kills or possesses wildlife may be assessed replacement costs according to the following minimum cost scale:

- (1) *General class.*
 - (i) Each threatened or endangered bird or mammal, \$5,000.
 - (ii) Each bald eagle, golden eagle or osprey, \$2,500.
 - (iii) Each elk or black bear, \$1,500.
 - (iv) Each white-tailed deer, \$800.
 - (v) Each bobcat or otter, \$500.
 - (vi) Each wild turkey or beaver, \$300.
 - (vii) Any other wildlife, \$200.
- (2) *Trophy class.*
 - (i) Each elk with a Boone and Crockett green score of 200 points or more, \$5,000.
 - (ii) Each white-tailed deer with a Boone and Crockett green score of 115 points or more, \$5,000.
 - (iii) Each black bear with a field dressed weight of 350 pounds or more, \$5,000.

Authority

The provisions of this § 131.8 issued under the Game and Wildlife Code, 34 Pa.C.S. §§ 925(i) and 2102; amended under the Game and Wildlife Code, 34 Pa.C.S. §§ 925 and 2102(a).

Source

The provisions of this § 131.8 adopted June 1, 2001, effective June 2, 2001, 31 Pa.B. 2791; amended June 5, 2009, effective June 6, 2009, 39 Pa.B. 2791; amended November 6, 2015, effective November 7, 2015, 45 Pa.B. 6501; amended March 10, 2017, effective March 11, 2017, 47 Pa.B. 1467. Immediately preceding text appears at serial pages (380999) to (381000).

§ 131.9. Disclosure of certain records.

In accordance with the Right-to-Know Law (65 P.S. §§ 67.101—67.3104), public access to the following records, wherever located, will only be made as set forth in paragraphs (1)—(3):

- (1) *Wind power records.* Commission annual reports and Pennsylvania Natural Heritage Program clearance correspondence respecting existing or proposed windpower facilities will be provided upon request, but redacted as necessary. All other records are pre-deliberative, proprietary or tending to identify the location of threatened or endangered species and will not be disclosed.
- (2) *Pennsylvania Natural Heritage Program records.* Pennsylvania Natural Heritage Program clearance correspondence will be provided upon request, but

redacted as necessary. All other records are predeliberative, proprietary or tending to identify the location of threatened or endangered species and will not be disclosed.

(3) *License records.* All annual accounts of license sales, all fiscal reports of license sales revenues and all summary wildlife harvest report records will be provided upon request. Under the limitations of section 325 of the act (relating to limitation on disclosure of certain records), individual license information or related harvest information will not be disclosed.

(4) *Personal identifying information.* Any request, the response to which includes personal identifying information will be redacted so as to only provide that information necessary to identify the person to the Commission. Personal identifying information will not be disclosed as predeliberative, proprietary or tending to result in a substantial and demonstrable risk of physical harm to the person or the personal security of an individual and will not be disclosed without due process of law authorizing and ordering the disclosure.

Authority

The provisions of this § 131.9 issued under the Game and Wildlife Code, 34 Pa.C.S. §§ 2102(a) and 2722(g).

Source

The provisions of this § 131.9 adopted August 6, 2010, effective August 7, 2010, 40 Pa.B. 4386.

§ 131.10. Pennsylvania Hunting Heritage registration plate fee.

Applicants seeking authorization to request a Pennsylvania Hunting Heritage registration plate issued under 75 Pa.C.S. § 1355.1 (relating to Pennsylvania Hunting Heritage registration plates) will be assessed a fee of \$25 in addition to fees collected by the Department of Transportation under 75 Pa.C.S. § 1931(b) (relating to personal and organization registration plates).

Authority

The provisions of this § 131.10 issued under the Game and Wildlife Code, 34 Pa.C.S. § 2102(a).

Source

The provisions of this § 131.10 adopted January 30, 2015, effective January 31, 2015, 45 Pa.B. 560.

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