



Jeff Grim

Final Analysis
Legislative Service Commission

Sub. H.B. 493

124th General Assembly
(As Passed by the General Assembly)

Reps. Latta, Aslanides, Carey, Gilb, Seitz, Niehaus, Hagan, Husted, Sullivan, Webster, Roman, Kearns, Wilson, Rhine, Hollister, Collier, Evans, Boccieri, Faber, Buehrer, Schaffer, Reidelbach, Blasdel, Carmichael, Sulzer, Brinkman, Distel, Seaver, Redfern, Grendell, Core, Wolpert, Clancy, Schmidt, Ogg, Flannery, Sferra, Carano, Peterson, Widowfield, McGregor, Fessler, Schneider, Hughes, Manning, Barrett, Flowers, Coates, Setzer, Raga, Cates, Latell, Driehaus, Jolivette

Sens. Mumper, Carnes, Shoemaker, DiDonato, Harris, Robert Gardner, Herington, Hottinger, Nein, Spada, Wachtmann, Ryan, White

Effective date: *

ACT SUMMARY

Sunday hunting

- Eliminates the general prohibition against hunting a wild bird or wild quadruped on Sunday and all related provisions, including provisions creating an exception to the general prohibition by allowing the registration of private land for Sunday hunting.

Deer killed by a motor vehicle

- Authorizes any driver, rather than only a resident driver, of a motor vehicle that has caused the death of a deer by striking the deer on a highway to take possession of the deer, provided that the driver files a timely accident report.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

- Eliminates the requirement that such a deer be possessed and consumed by the driver and the driver's immediate family or be given to a private or public institution or charity.
- Requires the officer who investigates the accident to give the driver a certificate for legal ownership of the deer, and specifies that if the deer is unclaimed, the certificate may be given to a private or public institution or charity or to another person.

Rulemaking authority concerning migratory game birds

- Authorizes the Chief of the Division of Wildlife in the Department of Natural Resources to adopt rules governing the hunting of migratory game birds using an abbreviated rulemaking procedure established in statute, and defines "migratory game bird."

CONTENT AND OPERATION

Elimination of restrictions on Sunday hunting

Prohibition

The act eliminates former law that prohibited, with certain exceptions, the hunting of a wild bird or wild quadruped on Sunday (see below) (sec. 1531.021(A)). The act also eliminates all references to Sunday hunting in the Hunting and Fishing Law (secs. 1533.05(B)(2), 1533.07, 1533.73(C), and 1533.731(B)(1)). Continuing law defines "wild quadrupeds" to include cottontail rabbits, gray squirrels, black squirrels, fox squirrels, red squirrels, flying squirrels, chipmunks, groundhogs or woodchucks, white-tailed deer, wild boar, black bears, minks, weasels, raccoons, skunks, opossums, muskrats, fox, beavers, badgers, otters, coyotes, and bobcats (sec. 1531.01(U), (V), and (W)).

Exceptions to prohibition

The act also eliminates former law that established exceptions to the prohibition against Sunday hunting. Those exceptions included: (1) hunting on public lands designated by the Division of Wildlife as a state public hunting area, (2) hunting on private lands registered in accordance with the provisions described in "**Registration of private land for Sunday hunting**," below, (3) hunting on any private lands consisting of not less than 20 contiguous acres by the owner of the lands and specified members of the owner's family, (4) lawfully hunting on a commercial bird shooting preserve, (5) lawfully hunting on a wild animal hunting preserve, (6) lawfully engaging in the sport of falconry, and (7) hunting coyotes,

fox, groundhogs, or migratory waterfowl as defined in the federal Migratory Bird Hunting Stamp Act (sec. 1531.021(B)(1) to (7)).

Registration of private land for Sunday hunting

The act eliminates former law that provided for the registration of private land for Sunday hunting (sec. 1531.022). Under that law, the Chief of the Division of Wildlife was required to establish a program under which owners of private lands who wanted to allow hunting on their lands on Sunday could register to do so with the Division. Law eliminated by the act authorized a landowner to register an area of land with the Chief only if it met either of the following conditions:

(1) The area of land consisted of not less than 100 contiguous acres; areas of land owned by the same person were considered to be contiguous although they were separated by a public road or highway; or

(2) If an area of land consisted of less than 100 contiguous acres, the owner of the area of land and one or more other owners of areas of land consisting of less than, equal to, or more than 100 contiguous acres each jointly registered their lands with the Chief. In order to be eligible for a joint registration, each area of land proposed to be included had to be contiguous to at least one of the other areas of land proposed to be included, and the areas of land proposed to be included had to consist of a total of not less than 100 acres. Areas of land were considered to be contiguous if they shared a common boundary or were separated only by a public road or highway. (Sec. 1531.022(A) and (B).)

Law eliminated by the act provided that, upon registration, the Division had to issue to each affected landowner, free of charge, a permit reflecting that hunting on Sunday was lawful on the lands specified by the landowner in the registration or joint registration. Such a permit was valid for five years unless the landowner invalidated it by notifying the Division that the landowner no longer wanted to allow hunting on Sunday on the lands specified in the permit. If any landowner who jointly registered land notified the Chief that the landowner no longer wanted to allow hunting on Sunday on the landowner's land, the permit was invalid with respect to all of the lands specified in the permit. Upon receiving such a notice from a landowner who jointly registered land, the Chief had to notify the other landowners named in the joint registration of the invalidation of the permit. A landowner could invalidate a permit at any time. (Sec. 1531.022.)

Under law eliminated by the act, if any landowner who registered or jointly registered land ceased to be the owner of the land specified in a permit, the permit was invalid with respect to all of the lands specified in the permit. Upon ceasing to be the owner of land specified in such a permit, the permit holder had to notify



the Chief of that fact. Upon receiving such a notice regarding land that was jointly registered, the Chief had to notify the other landowners named in the joint registration of the invalidation of the permit. (Sec. 1531.022.)

Law eliminated by the act required the Division to keep records of all registered landowners holding a valid permit and authorized the Division to furnish the records to wildlife officers or other law enforcement officers for the purpose of enforcing the law governing hunting on Sunday. In addition, it authorized the Division to furnish a landowner holding a valid permit with signs reflecting that hunting on Sunday was lawful on the lands on which the signs were posted. Finally, law eliminated by the act authorized the Chief to adopt any rules necessary for implementation of the provisions governing registration of private land for Sunday hunting. (Sec. 1531.022.)

Deer killed by a motor vehicle

Law unchanged by the act specifies that except as otherwise provided by Division rule, the resident driver of a motor vehicle that has caused the death of a deer by striking the deer on a highway may take possession of the deer, provided that within 24 hours thereafter, he reports the accident to a wildlife officer or other law enforcement officer. The act extends this authority to take possession of such a deer to any driver of a motor vehicle rather than to resident drivers only. (Sec. 1533.121.)

Law retained in part by the act requires an officer who receives the report to investigate and, if he finds that the death of the deer has been caused as alleged, to give a certificate to the person entitling the person to the ownership of the carcass. The act retains the requirement that the officer make an investigation, but specifies that if the officer finds that the deer's death has been caused as alleged, he must give a certificate for legal ownership of the deer to the driver. Under former law, the carcass was to be possessed and consumed by the driver and the driver's immediate family or given to a private or public institution or charity. The act eliminates this requirement and instead specifies that if the deer is unclaimed, the certificate for legal ownership may be given to a private or public institution or charity or to another person. (Sec. 1533.121.)

Use of abbreviated rulemaking procedure for adoption of rules concerning hunting of migratory game birds

The act specifies that in addition to any other authority conferred on the Chief of the Division of Wildlife, the Chief may adopt, under continuing law that informally is referred to as the abbreviated rulemaking section, rules governing the hunting of migratory game birds (sec. 1531.101). Unlike the Administrative Procedure Act, the abbreviated rulemaking section does not require public notice

or public hearings regarding a proposed rule and does not establish a duty to inform the public that a rule has been adopted (sec. 111.15 and Chapter 119., not in the act).

The rules that the Chief may adopt under the act include any rules that are necessary to establish acceptable methods of taking migratory game birds together with bag limits and designated seasons, areas, and hours for hunting them (sec. 1531.101). The act defines "migratory game bird" to include waterfowl (Anatidae); doves (Columbidae); cranes (Gruidae); rails, coots, and gallinules (Rallidae); and woodcock and snipe (Scolopacidae) (sec. 1531.01(AAA)).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-30-02	p. 1355
Reported, H. Agriculture & Natural Resources	02-28-02	p. 1480
Passed House (92-2)	03-13-02	pp. 1524-1525
Reported, S. Agriculture	04-18-02	p. 1683
Passed Senate (32-0)	04-23-02	p. 1690

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