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*Bill Analysis*  
Legislative Service Commission

## **Sub. H.B. 493**

124th General Assembly

(As Reported by H. Agriculture & Natural Resources)

**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**

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### **BILL 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.
- 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."

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## **CONTENT AND OPERATION**

### **Elimination of restrictions on Sunday hunting**

#### **Prohibition**

The bill eliminates current law that prohibits, with certain exceptions, the hunting of a wild bird or wild quadruped on Sunday (see below) (sec. 1531.021(A)). The bill 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 bill also eliminates current law that establishes exceptions to the prohibition against Sunday hunting. Those exceptions include: (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 bill eliminates current law that provides for the registration of private land for Sunday hunting (sec. 1531.022). Under that law, the Chief of the Division of Wildlife must establish a program under which owners of private lands who wish to allow hunting on their lands on Sunday may register to do so with the Division. The eliminated law authorizes a landowner to register an area of land with the Chief only if it meets either of the following conditions:

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

(2) If an area of land consists 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 register their lands with the Chief. In order to be eligible for a joint registration, each area of land proposed to be included must 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 must consist of a total of not less than 100 acres. Areas of land are considered to be contiguous if they share a common boundary or are separated only by a public road or highway. (Sec. 1531.022(A) and (B).)

The eliminated law provides that, upon registration, the Division must issue to each affected landowner, free of charge, a permit reflecting that hunting on Sunday is lawful on the lands specified by the landowner in the registration or joint registration. Such a permit is valid for five years unless the landowner invalidates it by notifying the Division that the landowner no longer wishes to allow hunting on Sunday on the lands specified in the permit. If any landowner who jointly registers land notifies the Chief that the landowner no longer wishes to allow hunting on Sunday on the landowner's land, the permit is 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 must notify the other landowners named in the joint registration of the invalidation of the permit. A landowner may invalidate a permit at any time. (Sec. 1531.022.)

Under the law eliminated by the bill, if any landowner who registers or jointly registers land ceases to be the owner of the land specified in a permit, the permit is 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 must notify the Chief of that fact. Upon receiving such a notice regarding land that is jointly registered, the Chief must notify the other landowners named in the joint registration of the invalidation of the permit. (Sec. 1531.022.)

The eliminated law requires the Division to keep records of all registered landowners holding a valid permit and authorizes 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 authorizes the Division to furnish a landowner holding a valid permit with signs reflecting that hunting on Sunday is lawful on the lands on which the signs are posted. Finally, the law eliminated by the bill authorizes 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**

Current law 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 bill 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.)

Current law 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 to be possessed and consumed by the driver and the driver's immediate family or by giving the carcass to a private or public institution or charity. The bill 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. The bill eliminates the requirement that the 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. However, it 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 bill specifies that in addition to any other authority conferred on the Chief of the Division of Wildlife, the Chief may adopt, under current 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 bill).

The rules that the Chief may adopt under the bill 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 bill 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)).

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-30-02	p. 1355
Reported, H. Agriculture & Natural Resources	02-28-02	p. 1480

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