

ASSEMBLY, No. 3242

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 8, 2018

Sponsored by:

Assemblyman BOB ANDRZEJCZAK

District 1 (Atlantic, Cape May and Cumberland)

SYNOPSIS

Permits certain deer control activities; prohibits deer feeding; and establishes check-off donation on hunting license applications to support venison donation program.

CURRENT VERSION OF TEXT

As introduced.



A3242 ANDRZEJCZAK

2

1 AN ACT concerning deer, amending P.L.1997, c.123, P.L.1997,
2 c.268, P.L.1997, c.424, and R.S.23:4-42, and supplementing
3 Title 23 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 1 of P.L.1997, c.424 (C.23:4-24.4) is amended to
9 read as follows:

10 1. a. Notwithstanding the provisions of section 1 and section 2
11 of P.L.1970, c.180 (C.23:4-24.2 and C.23:4-24.3) **], a person may]**
12 and the provisions of section 6 of P.L. , c. (C.) (pending
13 before the Legislature as this bill) to the contrary, the Fish and
14 Game Council may authorize a hunter to: (1) use bait , for the
15 purposes of hunting, to attract, entice, or lure a deer; **[and]** (2) kill,
16 destroy, injure, shoot, shoot at, take, wound, or attempt to take, kill,
17 or wound, a deer, or have in possession or control any firearm or
18 other weapon of any kind for such purposes, within any distance of
19 a baited area **[.] [A person may] ; and (3) be elevated , when**
20 using a baited area, in a standing tree or **[in a]** structure of any kind
21 **[when using a baited area for hunting deer, and the baited area may**
22 be within any distance of the standing tree or structure] , which lies
23 within any distance of the baited area.

24 b. For the purposes of this section, “baited area” means **[the**
25 **presence of placed, exposed, deposited, distributed, or scattered] an**
26 **area wherein** agricultural products, salt, or any other edible lure
27 **[whatsoever] capable of attracting, enticing, or luring deer is**
28 **placed, exposed, deposited, distributed, or scattered for the purposes**
29 **of hunting; and “hunter” means any person who has obtained from**
30 **the Division of Fish and Wildlife: (1) a license or permit to hunt**
31 **deer, or (2) a permit, issued pursuant to section 4 of P.L.2000, c.46**
32 **(C.23:4-42.6), to engage in alternative control methods that have**
33 **been approved by the division for use in a community based deer**
34 **management plan.**

35 c. The Fish and Game Council shall adopt, pursuant to the
36 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
37 seq.), rules and regulations as may be necessary to effectuate the
38 provisions of this section.

39 (cf: P.L.1999, c.231, s.1)

40
41 2. R.S.23:4-42 is amended to read as follows:

42 23:4-42. a. Except as provided in subsection b. of this section,
43 no person shall hunt for, pursue, shoot at, take, kill, wound or

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 to take, kill or wound a deer of any description prohibited by the
2 provisions of the State Fish and Game Code, or hunt for, pursue,
3 shoot at, take, kill, wound or attempt to take, kill or wound any wild
4 deer at any time except during the period permitted by the State
5 Fish and Game Code, or kill in any one year more than the number
6 of deer permitted by the State Fish and Game Code.

7 b. 【The】 (1) Notwithstanding the provisions of subsection a. of
8 this section or any other law, rule, or regulation to the contrary, it
9 shall be lawful for the owner or lessee of 【any】 land 【, a portion of
10 which is】 consisting, in part, of forested ground or land under
11 cultivation, who has on their person a written permit issued by the
12 division; or for the authorized 【agents】 agent 【of the owner or
13 lessee having】 thereof, who has on their person a written permit
14 issued by the division and countersigned by the owner or lessee ,
15 【may】 to kill any deer that 【may be】 is found on 【that land】 the
16 forested ground or land under cultivation, as the case may be,
17 during the period covered by the permit.

18 (2) As a condition precedent to issuing a permit to an owner or
19 lessee of land under cultivation under this subsection, the division
20 may require the owner or lessee of the land to provide evidence that
21 deer damage has occurred on the land under cultivation within the
22 preceding 12 months.

23 As a condition precedent to issuing a permit to an owner or
24 lessee of forested ground under this subsection, the division may
25 require the owner or lessee of the forested ground to submit
26 evidence from a forester that the nature and extent of deer damage
27 within the preceding 12 months interferes with the goals of the
28 woodland management plan, forest management plan, or forest
29 stewardship plan.

30 (3) If so requested by the owner or lessee of the land, the period
31 covered by the permit issued under this subsection to the owner or
32 lessee of the land, or to the authorized agent thereof, shall 【also】
33 include the entire months of February and March.

34 (4) The carcass of a deer that is killed 【under such】 in
35 accordance with a permit issued by the division pursuant to this
36 subsection, shall become the property of the division and may be
37 removed and disposed of in the manner it directs.

38 (5) For the purpose of this 【section】 subsection, “land under
39 cultivation” 【shall mean (1)】 means (a) pasture fields that are
40 seeded with cultivated grass or that have been so seeded within the
41 prior 12 months, or 【(2)】 (b) land on which planted crops are
42 growing or were growing within the prior 12 months 【. The
43 division may require the owner or lessee of the land to provide
44 evidence of deer damage within the prior 12 months as a condition
45 of issuing a permit pursuant to this subsection】 ; and “forested
46 ground” means land that is the subject of a woodland management
47 plan prepared and implemented pursuant to section 3 of

1 P.L.1964, c.48 (C.54:4-23.3), a forest management plan that meets
2 standards adopted by the Natural Resources Conservation Service
3 of the United States Department of Agriculture, or a forest
4 stewardship plan, which has been approved by the department in
5 accordance with section 3 of P.L.2009, c.256 (C.13:1L-31).

6 (cf: P.L.1999, c.327, s.1)

7
8 3. Section 1 of P.L.1997, c.123 (C.23:4-42.1) is amended to
9 read as follows:

10 1. Notwithstanding the provisions of R.S.23:4-45 or any other
11 law, rule, regulation, or provision of the State Fish and Game Code
12 to the contrary, whenever , pursuant to R.S.23:4-42, a permit is
13 issued **【by the State】** to **【a person】** an owner or lessee of land, or
14 the authorized agent thereof, to kill deer causing **【crop】** damage on
15 forested ground or on land under cultivation **【pursuant to R.S.23:4-**
16 **42】**, it shall be lawful for the **【permittee or authorized agent**
17 **thereof】** permit holder, for the purposes authorized by the permit ,
18 and only while on the **【land or lands】** forested ground or land under
19 cultivation , which **【are owned or leased by that permittee】** is the
20 subject of the permit, but not on or along any adjacent public
21 highway **【adjacent thereto, and for which the permit is issued】** , to:

22 a. Kill either sex deer at any time of day or night, except that
23 the Fish and Game Council may impose such restrictions thereon as
24 may be necessary to protect the general public;

25 b. Transport, possess, have in the **【permittee's or agent's】**
26 permit holder's control, or keep firearms authorized pursuant to
27 R.S.23:4-44 uncased, unloaded, and outside the trunk while in or on
28 a motor vehicle or any other kind of vehicle;

29 c. Utilize an illuminating device or devices, including but not
30 limited to a spotlight, flashlight, floodlight, or headlight, whether
31 portable or fixed to a motor vehicle or any other kind of vehicle, to
32 locate and stun deer; and

33 d. Be assisted by the use of a driver for the motor vehicle or
34 other kind of vehicle, and by a person or persons operating the
35 illuminating device or devices, none of whom shall be required to
36 possess a firearms purchaser identification card while providing
37 such assistance.

38 (cf: P.L.1997, c.123, s.1)

39
40 4. Section 1 of P.L.1997, c.268 (C.23:4-42.7) is amended to
41 read as follows:

42 1. a. The Commissioner of Health **【and Senior Services】**, in
43 consultation with the Commissioner of Environmental Protection,
44 the Secretary of Agriculture and the chairman of the Fish and Game
45 Council, shall establish a venison donation program. The program
46 shall permit, under controlled conditions, the slaughter, processing,
47 distribution, and serving of venison donated by recreational hunters

1 to nonprofit charitable organizations, in accordance with guidelines
2 established by the Commissioner of Health **【and Senior Services】**
3 and the State Fish and Game Code established pursuant to section
4 32 of P.L.1948, c.448 (C.13:1B-30), in order to protect the health
5 and safety of those persons consuming the donated venison.

6 b. The Commissioner of Health **【and Senior Services】**, in
7 consultation with the Commissioner of Environmental Protection,
8 the Secretary of Agriculture, the chairman of the Fish and Game
9 Council, and the United Bow Hunters of New Jersey, shall study the
10 feasibility of expanding the program to include venison obtained
11 from hunters **【licensed】** who have been issued a permit by the
12 **【Department of Environmental Protection】** Division of Fish and
13 Wildlife in the Department of Environmental Protection, pursuant to
14 R.S.23:4-42, to participate in **【crop】** depredation control activities ,
15 or venison obtained as a result of the implementation of other
16 methods to manage and control deer populations, including but not
17 limited to those established by sections 1 through 4 of P.L.2000,
18 c.46 (C.23:4-42.3 through C.23:4-42.6), and shall expand the
19 program accordingly if the **【commissioner】** Commissioner of
20 Health deems it appropriate.

21 (cf: P.L.2000, c.46, s.6)

22

23 5. (New section) a. There is hereby established within the
24 “hunters’ and anglers’ license fund,” created pursuant to the
25 provisions of R.S.23:3-11 and R.S.23:3-12, a special account to be
26 known as the “Hunters Helping the Hungry Fund.”

27 b. The Division of Fish and Wildlife in the Department of
28 Environmental Protection shall, on each new application or renewal
29 application for a hunting license or permit, depredation control
30 permit, or special deer management permit, or any other hunting or
31 fishing license or permit issued by the division, provide the
32 applicant with the opportunity to indicate thereon that an enclosed
33 monetary contribution shall be deposited in the special account
34 established by subsection a. of this section. The division shall
35 allow the applicant’s donation preference to be indicated on the
36 license or permit application form in substantially the following
37 way:

38 Hunters Helping the Hungry Fund: I wish to contribute \$10,
39 \$20, other amount \$..... to this fund.

40 c. Any costs incurred by the Department of Environmental
41 Protection for the collection of funds or for the administration of the
42 donation program under this section may be deducted from receipts
43 collected pursuant to this section, as determined by the Director of
44 the Division of Budget and Accounting. The State Treasurer shall
45 deposit net contributions collected pursuant to this section into the
46 “Hunters Helping the Hungry Fund.”

1 d. The Legislature shall annually appropriate all funds
2 deposited in the “Hunters Helping the Hungry Fund” to the
3 Department of Environmental Protection for distribution to the
4 nonprofit organization, Hunters Helping the Hungry, or to any other
5 nonprofit organization that, as determined by the department, has a
6 substantially similar purpose and mission. The funds appropriated
7 and distributed pursuant to this subsection shall be used by Hunters
8 Helping the Hungry or by such other, similarly purposed, nonprofit
9 organization, as the case may be, for the purposes of administering,
10 maintaining, facilitating, and expanding the venison donation
11 program that is overseen and managed thereby.

12

13 6. (New section) a. No person shall feed, give, place, expose,
14 deposit, distribute or scatter any edible material or attractant with
15 the intention of feeding, attracting or enticing a deer, or store pet
16 food, agricultural materials, salt, garbage or other deer attractants in
17 a manner that will result in deer feedings when deer are known to
18 frequent the area.

19 This subsection shall not apply to the use and placement of bait
20 for deer, as authorized by, and undertaken in accordance with,
21 section 1 of P.L.1997, c.424 (C.23:4-24.4) and the applicable
22 provisions of the State Fish and Game Code.

23 b. (1) If any person violates subsection a. of this section, the
24 department may institute a civil action in a court of competent
25 jurisdiction for injunctive relief to prohibit and prevent such
26 violation or violations and the court may proceed in the action in a
27 summary manner.

28 (2) Any person who violates the provisions of subsection a. of
29 this section shall be liable to a civil penalty of not less than \$200
30 nor more than \$500 for the first offense, and not less than \$500 nor
31 more than \$1,000 for any subsequent offense, to be collected in a
32 civil action by a summary proceeding under the “Penalty
33 Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.) or
34 in any case before a court of competent jurisdiction wherein
35 injunctive relief has been requested. Civil penalties recovered for
36 violations pursuant to this paragraph shall be remitted as provided
37 in R.S.23:10-19. The Superior Court and municipal court shall
38 have jurisdiction to enforce the “Penalty Enforcement Law of
39 1999.”

40 If the violation is of a continuing nature, each day during which
41 it continues shall constitute an additional, separate and distinct
42 offense.

43 No person shall be assessed a civil penalty pursuant to this
44 paragraph unless the person has first been issued a prior written
45 warning for a violation of subsection a. of this section.

46 (3) The department is hereby authorized and empowered to
47 compromise and settle any claim for a penalty under this section in

1 such amount in the discretion of the department as may appear
2 appropriate and equitable under all of the circumstances.

3 c. The provisions of this section shall be enforced by all
4 municipal police officers, the State Police, and law enforcement
5 officers with the Division of Fish and Wildlife and the Division of
6 Parks and Forestry in the Department of Environmental Protection.

7 d. Nothing in this section shall be construed to restrict in any
8 way the attraction, capture, or taking of deer by or at the direction
9 of the Division of Fish and Wildlife for management or research
10 purposes.

11 e. Nothing in this section shall be construed to restrict or
12 prohibit the feeding of deer at a deer farm.

13

14 7. This act shall take effect on the 60th day following the date
15 of enactment, but the Commissioner of Environmental Protection
16 may take any anticipatory administrative action in advance thereof
17 as may be necessary for the implementation of this act.

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STATEMENT

21

22 This bill would amend and supplement the law, in several
23 different ways, as it pertains to deer and deer hunting. In particular,
24 the bill would:

25 1) expand the law relating to deer depredation control activities;

26 2) add a Statewide, general prohibition against the feeding of
27 deer;

28 3) clarify the law pertaining to deer baiting; and

29 4) establish a uniform procedure by which monetary donations
30 can be made by hunters to the non-profit organization Hunters
31 Helping the Hungry.

32 State law currently allows the Division of Fish and Wildlife in
33 the Department of Environmental Protection (DEP) to authorize a
34 land owner or lessee, or the authorized agent thereof, through the
35 issuance of a permit, to engage in deer depredation control activities
36 only on land that is "under cultivation," as defined by statute. The
37 bill would amend the current relevant sections of law to additionally
38 allow the Division of Fish and Wildlife to authorize a land owner or
39 lessee, or the authorized agent thereof, through the issuance of a
40 permit, to engage in deer depredation control activities on forested
41 land that is the subject of a forest stewardship plan, forest
42 management plan, or woodland management plan. The bill would
43 authorize the Division of Fish and Wildlife to require:

44 1) the owner or lessee of land under cultivation to provide
45 evidence that deer damage has occurred on the land under
46 cultivation within the preceding 12 months; and

47 2) the owner or lessee of forested land to submit evidence from a
48 forester that the nature and extent of deer damage within the

1 preceding 12 months interferes with the goals of the woodland
2 management plan, forest management plan, or forest stewardship
3 plan.

4 The bill would additionally establish a new, and general,
5 prohibition against the feeding of deer and the enticing of deer to
6 feed through the placement or improper storage of edible materials
7 or deer attractants. The bill would, however, explicitly exempt
8 from this general prohibition the authorized use and placement of
9 bait for deer hunting purposes, and the feeding of deer at a deer
10 farm. The bill would, moreover, amend the law pertaining to the
11 baiting of deer, in order to make it clear that such baiting may be
12 undertaken only:

13 1) for the purposes of hunting;

14 2) by a hunter who has been licensed or permitted by the Fish
15 and Game Council; and

16 3) following the hunter's receipt of authorization therefor from
17 the Fish and Game Council.

18 The law, as currently worded, indicates that deer baiting may be
19 engaged in at any time, by any person, and without first obtaining
20 authorization therefor. The bill would instead expressly grant the
21 Fish and Game Council the power to authorize a hunter to:

22 1) use bait to lure deer for the purposes of hunting;

23 2) kill, shoot, injure, wound, or take a deer, or have a firearm or
24 other weapon in the hunter's possession, within any distance of a
25 baited area; and

26 3) be elevated, when using a baited area, in a tree or other
27 structure, which lies within any distance of the baited area.

28 The Fish and Game Council would further be authorized to adopt
29 any administrative rules that may be necessary to regulate the
30 baiting of deer in accordance with the bill's provisions. The bill's
31 baiting authorization would not be extended to permittees engaged
32 in depredation activities on forested land or land under cultivation.

33 Finally, the bill would establish within the State's "hunters' and
34 anglers' license fund," a special account to be known as the
35 "Hunters Helping the Hungry Fund." Hunters Helping the Hungry
36 (HHH) is a nonprofit organization that works with regional food
37 banks to provide hungry State residents with nutritious, high-
38 protein venison meat, which has been donated to the organization
39 by deer hunters. Although, in 2001, HHH received a legislative
40 grant of \$95,000, and in 2003, obtained a \$50,000 grant from the
41 Division of Fish and Wildlife, since that time the organization has
42 relied upon private donations to effectuate its mission.

43 In order to support the venison donation program currently
44 overseen and managed by this organization, and in order to
45 encourage hunters to make the private monetary contributions
46 needed to sustain such a program, the bill would require the
47 Division of Fish and Wildlife, on each new application or renewal
48 application for a recreational hunting license, depredation control

1 permit, or special deer management permit, or on any other hunting
2 or fishing license or permit issued thereby, to provide the applicant
3 with the opportunity to indicate thereon, using a check-off style
4 format, that the applicant wishes an enclosed monetary contribution
5 to be donated to the "Hunters Helping the Hungry Fund."

6 Although the bill would provide that any costs incurred by the
7 DEP for the collection of funds or the administration of the
8 donation program may be deducted from the receipts obtained from
9 donations, the bill would require the remaining moneys to be
10 deposited into the "Hunters Helping the Hungry Fund" and annually
11 appropriated by the Legislature to the DEP, for distribution to HHH
12 or to another nonprofit organization which, as determined by the
13 DEP, has a substantially similar purpose and mission. The bill
14 would further require those distributed funds to be used by HHH or
15 by such other similarly purposed nonprofit organization, as the case
16 may be, for the purposes of administering, maintaining, facilitating,
17 and expanding the venison donation program.