

SENATE, No. 2419

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED APRIL 5, 2018

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

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.



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 using a
20 baited area, in a standing tree or **[in a]** structure of any kind **[when**
21 using a baited area for hunting deer, and the baited area may be
22 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
44 attempt to take, kill or wound a deer of any description prohibited

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

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

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

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

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

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

37 (5) For the purpose of this 【section】 subsection, “land under
38 cultivation” 【shall mean (1)】 means (a) pasture fields that are
39 seeded with cultivated grass or that have been so seeded within the
40 prior 12 months, or 【(2)】 (b) land on which planted crops are
41 growing or were growing within the prior 12 months 【. The
42 division may require the owner or lessee of the land to provide
43 evidence of deer damage within the prior 12 months as a condition
44 of issuing a permit pursuant to this subsection】 ; and “forested
45 ground” means land that is the subject of a woodland management
46 plan prepared and implemented pursuant to section 3 of
47 P.L.1964, c.48 (C.54:4-23.3), a forest management plan that meets

1 standards adopted by the Natural Resources Conservation Service
2 of the United States Department of Agriculture, or a forest
3 stewardship plan, which has been approved by the department in
4 accordance with section 3 of P.L.2009, c.256 (C.13:1L-31).
5 (cf. P.L.1999, c.327, s.1)
6

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

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

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

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

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

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

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

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

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

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

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

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

20

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

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

36 Hunters Helping the Hungry Fund: I wish to contribute \$10,
37 \$20, other amount \$..... to this fund.

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

45 d. The Legislature shall annually appropriate all funds
46 deposited in the “Hunters Helping the Hungry Fund” to the
47 Department of Environmental Protection for distribution to the
48 nonprofit organization, Hunters Helping the Hungry, or to any other

1 nonprofit organization that, as determined by the department, has a
2 substantially similar purpose and mission. The funds appropriated
3 and distributed pursuant to this subsection shall be used by Hunters
4 Helping the Hungry or by such other, similarly purposed, nonprofit
5 organization, as the case may be, for the purposes of administering,
6 maintaining, facilitating, and expanding the venison donation
7 program that is overseen and managed thereby.

8

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

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

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

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

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

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

41 (3) The department is hereby authorized and empowered to
42 compromise and settle any claim for a penalty under this section in
43 such amount in the discretion of the department as may appear
44 appropriate and equitable under all of the circumstances.

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

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

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

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

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STATEMENT

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16 This bill would amend and supplement the law, in several
17 different ways, as it pertains to deer and deer hunting. In particular,
18 the bill would: (1) expand the law relating to deer depredation
19 control activities; (2) add a Statewide, general prohibition against
20 the feeding of deer; (3) clarify the law pertaining to deer baiting;
21 and (4) establish a uniform procedure by which monetary donations
22 can be made by hunters to the non-profit organization Hunters
23 Helping the Hungry.

24 State law currently allows the Division of Fish and Wildlife in
25 the Department of Environmental Protection to authorize a land
26 owner or lessee, or the authorized agent thereof, through the
27 issuance of a permit, to engage in deer depredation control activities
28 only on land that is "under cultivation," as defined by statute. The
29 bill would amend the relevant sections of law to additionally allow
30 the division to authorize a land owner or lessee, or the authorized
31 agent thereof, through the issuance of a permit, to engage in deer
32 depredation control activities on forested land that is the subject of
33 a forest stewardship plan, forest management plan, or woodland
34 management plan. The bill would authorize the Division of Fish
35 and Wildlife to require the owner or lessee of land under cultivation
36 to provide evidence that deer damage has occurred on the land
37 under cultivation within the preceding 12 months; and the owner or
38 lessee of forested land to submit evidence from a forester that the
39 nature and extent of deer damage within the preceding 12 months
40 interferes with the goals of the woodland management plan, forest
41 management plan, or forest stewardship plan.

42 The bill would additionally establish a new, and general,
43 prohibition against the feeding of deer and the enticing of deer to
44 feed through the placement or improper storage of edible materials
45 or deer attractants. The bill would, however, explicitly exempt
46 from this general prohibition the authorized use and placement of
47 bait for deer hunting purposes, and the feeding of deer at a deer
48 farm. The bill would, moreover, amend the law pertaining to the

1 baiting of deer, in order to make it clear that such baiting may be
2 undertaken only: (1) for the purposes of hunting; (2) by a hunter
3 who has been licensed or permitted by the Fish and Game Council;
4 and (3) following the hunter's receipt of authorization therefor from
5 the Fish and Game Council. The law, as currently worded,
6 indicates that deer baiting may be engaged in at any time, by any
7 person, and without first obtaining authorization therefor. The bill
8 would instead expressly grant the Fish and Game Council the power
9 to authorize a hunter to: (1) use bait to lure deer for the purposes of
10 hunting; (2) kill, shoot, injure, wound, or take a deer, or have a
11 firearm or other weapon in the hunter's possession, within any
12 distance of a baited area; and (3) be elevated, when using a baited
13 area, in a tree or other structure, which lies within any distance of
14 the baited area. The Fish and Game Council would further be
15 authorized to adopt any administrative rules that may be necessary
16 to regulate the baiting of deer in accordance with the bill's
17 provisions. The bill's baiting authorization would not be extended
18 to permittees engaged in depredation activities on forested land or
19 land under cultivation.

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

30 In order to support the venison donation program that is
31 currently overseen and managed by this organization, and in order
32 to encourage hunters to make the private monetary contributions
33 needed to sustain such a program, the bill would require the
34 Division of Fish and Wildlife, on each new application or renewal
35 application for a recreational hunting license, depredation control
36 permit, or special deer management permit, or on any other hunting
37 or fishing license or permit issued thereby, to provide the applicant
38 with the opportunity to indicate thereon, using a check-off style
39 format, that the applicant wishes an enclosed monetary contribution
40 to be donated to the "Hunters Helping the Hungry Fund."

41 Although the bill would provide that any costs incurred by the
42 DEP for the collection of funds or the administration of the
43 donation program may be deducted from the receipts obtained from
44 donations, the bill would require the remaining moneys to be
45 deposited into the "Hunters Helping the Hungry Fund" and annually
46 appropriated by the Legislature to the DEP, for distribution to HHH
47 or to another nonprofit organization which, as determined by the
48 department, has a substantially similar purpose and mission. The

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1 bill would further require those distributed funds to be used by
2 HHH or by such other, similarly purposed, nonprofit organization,
3 as the case may be, for the purposes of administering, maintaining,
4 facilitating, and expanding the venison donation program.