

P.L. 1997, CHAPTER 291, *approved January 8, 1998*
Senate, No. 1032

1 AN ACT concerning wildlife, amending R.S.23:1-1 and R.S.23:4-27,
2 and repealing R.S.23:5-4 and R.S.23:5-25.

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

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7 1. R.S.23:1-1 is amended to read as follows:

8 23:1-1. As used in this [Title] title :

9 ["Delaware river" means the waters of the Delaware river from the
10 Pennsylvania shore to the New Jersey shore, or in the case of any
11 tributaries or inland bays on the New Jersey side, to the mouths of
12 those tributaries or bays;

13 "Division," "board," or "Board of Fish and Game Commissioners"
14 means the Division of Fish, Game and Wildlife in the Department of
15 Environmental Protection;

16 "Council" means the Fish and Game Council in the Division of Fish,
17 Game and Wildlife in the Department of Environmental Protection;

18 "Code" means the State Fish and Game Code;

19 "Protector" or "fish and game protector" means chief conservation
20 officer;

21 "Assistant protector" or "assistant fish and game protector" means
22 district conservation officer;

23 "Warden" or "fish and game warden" means assistant district
24 conservation officer or conservation officer;

25 "Deputy warden" or "deputy fish and game warden" means deputy
26 conservation officer;

27 "Open season" means the time during the year when fish, game,
28 birds or animals, as the case may be, may be captured, taken, killed or
29 had in possession; and

30 "Closed season" means the time during the year when fish, game,
31 birds or animals, as the case may be, may not be captured, taken, killed
32 or had in possession.]

33 "Assistant protector" or "assistant fish and game protector" means
34 the Deputy Chief of the Bureau of Law Enforcement in the division:

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

Matter underlined thus is new matter.

1 "Closed season" means the date and time of year when wildlife may
2 not be captured, taken, killed, or had in possession in the field;

3 "Code" means the State Fish and Game Code;

4 "Conservation officer" means any sworn, salaried member of the
5 Bureau of Law Enforcement in the division holding the titles of
6 Conservation Officer I, II, or III, and includes the titles of Supervising
7 Conservation Officer and Chief of the Bureau of Law Enforcement;

8 "Council" means the Fish and Game Council in the Division of Fish,
9 Game and Wildlife in the Department of Environmental Protection;

10 "Delaware river" means the waters of the Delaware river from the
11 Pennsylvania shore to the New Jersey shore, or in the case of any
12 tributaries or inland bays on the New Jersey side, to the mouths of
13 those tributaries or bays;

14 "Deputy warden" or "deputy fish and game warden" means any
15 commissioned deputy conservation officer of the Bureau of Law
16 Enforcement in the division;

17 "Division," "board," or "Board of Fish and Game Commissioners"
18 means the Division of Fish, Game and Wildlife in the Department of
19 Environmental Protection;

20 "Fishing" means the possession of an instrument used to take fish
21 in a condition that makes the instrument readily usable, while in a
22 place or in proximity thereto where fish may be found;

23 "Hunting" means the possession of an instrument used to take
24 wildlife in a condition that makes the instrument readily usable, while
25 in a place or in proximity thereto where wildlife may be found;

26 "Open season" means the date and time of year when wildlife may
27 be captured, taken, killed, or had in possession;

28 "Protector" or "fish and game protector" means the Chief of the
29 Bureau of Law Enforcement in the division;

30 "Warden" or "fish and game warden" means a conservation officer;

31 "Wildlife" means any wild mammal, bird, reptile, amphibian, fish,
32 mollusk, crustacean or other wild animal or any part, product, egg or
33 offspring or the dead body or parts thereof.

34 (cf: P.L.1993, c.20, s.1)

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36 2. R.S.23:4-27 is amended to read as follows:

37 23:4-27. a. No person shall sell [, offer for sale or possess for sale
38 in this State, whether killed or taken within or without the State, a
39 dead body, or part thereof, of any species of squirrel, wild rabbit, wild
40 hare, or wild deer, or of a game bird or song bird belonging to a
41 species or subspecies native to this State and protected by the
42 provisions of the State Fish and Game Code, or, in the absence of any
43 provision in said code to the contrary protected by law or belonging
44 to a family, any species or subspecies of which is native to this State
45 and protected by the provisions of the State Fish and Game Code, or,
46 in the absence of any provision in said code to the contrary, protected

1 by law, under a penalty of \$20.00 for each such squirrel, wild rabbit,
 2 wild hare, wild deer or bird so sold, offered for sale or possessed for
 3 sale; and under a penalty of not less than \$100.00 and not more than
 4 \$300.00 for each such wild deer so sold, offered for sale or possessed
 5 for sale; provided, however, that wild rabbits or wild hares legally
 6 killed in another State may be brought into this State at any time for
 7 possession, sale and consumption; and provided, further, however, that
 8 nothing herein contained shall prohibit the sale of commercially raised
 9 wild rabbits and wild hares. The carcasses of deer and the unplucked
 10 carcasses of mallard, black and wood ducks, Canada geese, ruffed
 11 grouse, squirrels, rabbits, hares, quails and pheasants of all species
 12 raised on licensed game preserves and properly tagged, and the
 13 unplucked carcasses of Scotch grouse, European black grouse,
 14 European black plover, redlegged partridge and Egyptian quail coming
 15 from a foreign country, which are properly tagged by the State
 16 authorities, may be sold at any time for food purposes.] or purchase
 17 wildlife, except as authorized pursuant to this section or any other law
 18 or as may be authorized by rule or regulation adopted by the division
 19 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
 20 (C.52:14B-1 et seq.).

21 b. The provisions of subsection a. of this section shall not apply to
 22 the sale or purchase of wildlife authorized or regulated by chapters 2A
 23 or 2B of this title, R.S. 23:3-28 through R.S.23:3-39, section 4 of
 24 P.L.1970, c.247 (C.23:3-65), R.S.23:4-50, R.S.23:5-2, or Title 50 of
 25 the Revised Statutes, or any rule or regulation adopted pursuant
 26 thereto, provided that the wildlife was taken and possessed in a lawful
 27 manner.

28 c. Unless prohibited or restricted by rule or regulation adopted by
 29 the division, the raw or processed hide of the white-tailed deer
 30 (*Odocoileus virginianus*), the tail of the white-tailed deer, the portion
 31 of the front leg of a white-tailed deer limited to the carpal, metacarpal,
 32 and phalange bones, or the portion of the hind leg of a white-tailed
 33 deer limited to the tarsus, metatarsus, and phalange bones may be sold
 34 or purchased, provided that those parts or products are from a white-
 35 tailed deer that was taken and possessed in a lawful manner.

36 d. Notwithstanding the provisions of subsection a. of this section
 37 to the contrary:

38 (1) the dead body or any part or product thereof of the following
 39 wildlife may be sold or purchased, provided that the wildlife was taken
 40 and possessed in a lawful manner:

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42	<u>Virginia Opossum</u>	<u><i>Didelphis virginiana</i></u>
43	<u>Beaver</u>	<u><i>Castor canadensis</i></u>
44	<u>Muskrat</u>	<u><i>Ondatra zibethicus</i></u>
45	<u>Nutria</u>	<u><i>Myocaster coypus</i></u>
46	<u>Coyote</u>	<u><i>Canis latrans</i></u>

1	<u>Red Fox</u>	<u><i>Vulpes vulpes</i></u>
2	<u>Gray Fox</u>	<u><i>Urocyon cinereoargenteus</i></u>
3	<u>Raccoon</u>	<u><i>Procyon lotor</i></u>
4	<u>Long Tail Weasel</u>	<u><i>Mustela frenata</i></u>
5	<u>Short Tail Weasel</u>	<u><i>Mustela erminea</i></u>
6	<u>Mink</u>	<u><i>Mustela vison</i></u>
7	<u>Striped Skunk</u>	<u><i>Mephitis mephitis</i></u>
8	<u>River Otter</u>	<u><i>Lutra canadensis</i></u>

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 10 (2) wildlife not native to this state that originated from a state or
 11 other jurisdiction where it is legal to sell or purchase that wildlife and
 12 the wildlife was sold or purchased in accordance with the laws of that
 13 state or other jurisdiction, may be sold or purchased in this State
 14 unless prohibited by federal law, rule or regulation; provided that the
 15 wildlife is labeled with the state or other jurisdiction of origin, the
 16 name and address of the exporter, and all applicable permit numbers
 17 until the expected final retail transaction has been made.

18 e. The division shall adopt, pursuant to the "Administrative
 19 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and
 20 regulations as may be necessary to implement this section and to
 21 otherwise provide for the control and regulation of the sale and
 22 purchase of wildlife, including but not limited to wildlife not
 23 specifically listed in this section.

24 f. In addition to any penalties that may be prescribed by any other
 25 applicable law:

26 (1) a person who violates this section shall be:

27 (a) subject to a civil penalty of not less than \$200 and not more
 28 than \$1,000 for the first offense, and not less than \$500 and not more
 29 than \$3,000 for each subsequent offense. If the violation involves the
 30 sale or purchase of a black bear (*Ursus americanus*), turkey
 31 (*Meleagris gallapavo*), white-tailed deer (*Odocoileus virginianus*),
 32 bobcat (*Felis rufus*), or illegally taken river otter (*Lutra canadensis*),
 33 the civil penalty shall be not less than \$1,000 and not more than
 34 \$2,000 for the first offense, and not less than \$1,500 and not more
 35 than \$3,000 for each subsequent offense; and

36 (b) assessed the replacement value of the animal, as prescribed by
 37 section 10 of P.L.1990, c.29 (C.23:3-22.2); and

38 (2) a person who purposely violates this section when the total
 39 value of the sale or purchase is:

40 (a) less than \$200 shall be guilty of a disorderly persons offense;

41 (b) \$200 or more, but less than \$500, shall be guilty of a crime of
 42 the fourth degree;

43 (c) \$500 or more shall be guilty of a crime of the third degree.

44 g. For the purposes of this section, "sell or purchase" means to sell
 45 or offer for sale, possess for sale, purchase or agree to purchase,
 46 receive compensation, barter or offer to barter, trade or offer to trade,

1 or transfer or offer to transfer, or conspire for any of those purposes.
2 (cf: P.L.1979, c.385, s.5)

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4 3. R.S.23:5-4 and R.S.23:5-25 are repealed.

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6 4. This act shall take effect immediately.

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STATEMENT

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11 This bill would revise and clarify the law regulating the sale and
12 purchase of wildlife and wildlife parts and products. The bill would
13 impose a general prohibition on the sale or purchase of wildlife,
14 including parts and products, except as provided in the bill, by other
15 law, or by rule or regulation adopted by the Division of Fish, Game
16 and Wildlife. Specific provisions for white-tailed deer are included in
17 the bill. The bill also includes a list of wildlife species generally
18 excluded from the general prohibition against sale or purchase.

19 The bill prescribes significant civil and criminal penalties for
20 violations. In addition, it repeals two sections of law concerned with
21 the sale of certain kinds of fish.

22 Finally, the bill updates the general definition section for the fish
23 and game laws to reflect changes in terminology and governmental
24 organization.

25 The sale of wildlife, including parts and products thereof, is a
26 business that must be carefully monitored to ensure that the State's
27 wildlife resources are not negatively impacted. This bill provides the
28 necessary framework for the State to protect those resources while
29 allowing for their commercial use under certain conditions.

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34 Revises law regulating sale or purchase of wildlife.