

CHAPTER 46

AN ACT concerning deer management and control, establishing a permanent venison donation program, supplementing Title 23 of the Revised Statutes, amending N.J.S.2C:39-3 and P.L.1997, c.268, repealing section 2 of P.L.1997, c.268, and making an appropriation.

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

C.23:4-42.3 Appreciation for special deer management area designation.

1. a. Whenever a county board of agriculture determines that a farm or farms located within the county has incurred significant crop damage caused by deer, based on evidence submitted by the county board of agriculture or the Center for Wildlife Damage Control in the New Jersey Agriculture Experiment Station at Rutgers, The State University, the county board of agriculture may apply to the Division of Fish and Wildlife for designation of a special deer management area. The application shall describe the nature and extent of crop damage incurred, and delineate the area proposed for designation as a special deer management area. If the division determines that the significant crop damage has been caused by an overpopulation of deer in the area described in the application, it shall designate it as a special deer management area. In designating a special deer management area, the division may, after consultation with the county board of agriculture, modify the area proposed for designation in an application. The county board of agriculture or the division may request the Center for Wildlife Damage Control to coordinate and facilitate the application and designation of a special deer management area pursuant to this subsection.

b. Whenever a municipality determines that the deer population has caused significant damage to property, not including damage to agricultural property, in the municipality or has caused a significant number of vehicle collisions therein, the municipality may apply to the Division of Fish and Wildlife for designation of a special deer management area. Two or more municipalities may submit a single application for the designation of an area that includes more than one municipality. The application shall describe the nature and extent of property damage or vehicle collisions caused by deer, and delineate the area proposed for designation as a special deer management area. If the division determines that the significant damage to property or the significant vehicle collisions has been caused by an overpopulation of deer in the area described in the application, it shall designate it as a special deer management area. In designating a special deer management area, the division may, after consultation with the municipality, modify the area proposed for designation in an application.

c. Whenever the owner or operator of an airport determines that the existing population of deer within its boundaries and immediately adjacent property constitutes a hazard to the safe operation of aircraft, the owner or operator of the airport may apply to the Division of Fish and Wildlife for designation of a special deer management area. The application shall describe the nature and extent of the hazard to safe operations of aircraft, and delineate the area proposed for designation as a special deer management area. If the division determines that there is a hazard to the safe operation of aircraft at the airport due to deer in the area described in the application, it shall designate it as a special deer management area. In designating a special deer management area, the division may, after consultation with the owner or operator of the airport, modify the area proposed for designation in an application.

C.23:4-42.4 Submission of deer management plan.

2. a. Upon submission of an application pursuant to section 1 of this act, or at any time thereafter, a county board of agriculture, municipal governing body or owner or operator of an airport may submit to the division for its approval a community based deer management plan proposing alternative control methods to reduce the number of deer in an area designated as a special deer management area pursuant to section 1 of this act. A county board of agriculture, municipal governing body or owner or operator of an airport may submit a community based deer management plan concurrently with an application to the division for designation of a special deer management area.

Two or more municipalities may submit a single community based deer management plan for a special deer management area that covers more than one municipality.

The county board of agriculture or the division may request the Center for Wildlife Damage Control in the New Jersey Agricultural Experiment Station at Rutgers, The State University, to

coordinate and facilitate the development of a community based deer management plan.

b. A community based deer management plan shall:

- (1) delineate the boundaries of the special deer management area;
- (2) describe the proposed alternative control methods to reduce the number of deer in the special deer management area, which may include the methods authorized pursuant to section 3 of this act;
- (3) identify any organization that will participate in the implementation of the alternative control methods proposed in the plan, and describe its qualifications;
- (4) describe the methods that will be used to notify the public, including residents located within and adjacent to the special deer management area, of the alternative control methods proposed in the plan and the specific times and the specific places when and where they will be used;
- (5) describe the precautions that will be taken to ensure the safety of the public;
- (6) document the written consent of each affected landowner for access to that person's land if access to private property is necessary to implement the plan;
- (7) attach a resolution, adopted by the governing body of the municipality in which the special deer management area is located, which endorses the community based deer management plan; and
- (8) include such additional information as the division may determine to be necessary to properly review a community based deer management plan.

c. The division shall promptly review a community based deer management plan submitted pursuant to this act, and either approve the plan, approve the plan subject to modification, or disapprove the plan and return it to the applicant setting forth in writing the reasons for its decision. If the division approves a community based deer management plan, the division shall submit it to the Fish and Game Council for its review and action pursuant to section 3 of this act.

d. Whenever practicable, a community based deer management plan shall provide for the donation of deer in accordance with the venison donation program established pursuant to section 1 of P.L.1997, c.268.

e. For the purposes of this act, "alternative control method" or "alternative deer control method" means any technique, other than traditional hunting, employed to reduce a deer population, which may include, but need not be limited to, controlled hunting, shooting by an authorized agent, capture and euthanization, capture and removal, and fertility control.

C.23:4-42.5 Exemption, variation from certain laws, etc. for implementation of alternative control methods.

3. a. The Fish and Game Council may authorize an exemption or variation from the following laws, rules or regulations to the extent necessary and appropriate to implement the alternative control methods set forth in an approved community based deer management plan:

- (1) any provision of the State Fish and Game Code;
- (2) any rule or regulation adopted by the council;
- (3) the following provisions of Title 23 of the Revised Statutes: (a) R.S. 23:4-13; (b) subsections a., b. and c. of R.S.23:4-16; (c) P.L.1939, c.172 (C.23:4-24.1);(d)section 11 of P.L.1990, c.29 (C.23:4-24.1a);(e)R.S.23:4-44;(f)R.S.23:4-45; and(g)R.S.23:4-48; and
- (4) the provisions of subsection c. of N.J.S. 2C:39-3.

b. The council shall authorize an exemption or variation from one or more of the laws, rules or regulations set forth in subsection a. of this section only upon a determination that the approved community based deer management plan adequately provides for the safety of the public. The council may condition the exemption or variation from one or more of the laws, rules or regulations set forth in subsection a. of this section on the implementation of one or more specific measures it determines to be reasonably necessary to ensure public safety, including but not limited to the on-site presence of law enforcement officers or on-site inspection by division personnel.

c. The council may authorize an exemption or variation from subsection c. of N.J.S. 2C:39-3 only upon the prior written approval of the county prosecutor of the county in which the municipality in which the special deer management area is located. The council may

authorize an exemption or variation from R.S.23:4-13 and R.S.23:4-44 only upon the receipt of documentation that each individual authorized to administer the alternate control method possesses a valid firearm hunting license, a valid rifle permit issued by the division, and a valid New Jersey firearm purchaser identification card or proof that the person is in compliance with the applicable laws of the person's state of residence. The council may authorize an exemption or variation from subsection c. of R.S.23:4-16 only if, for public safety reasons, it is conditioned upon the road or highway being properly closed by law enforcement officers for the time authorized in the special deer management permit issued pursuant to section 4 of this act.

C.23:4-42.6 Special deer management permit; issuance.

4. a. The division shall issue a special deer management permit to any applicant authorized to implement an alternative control method set forth in an approved community based deer management plan. The permit shall identify the time, place and alternative control method authorized by the division, the name of each individual authorized to administer the alternate control method, any exemption or variance from a law, rule or regulation authorized by the council pursuant to section 3 of this act, and any special conditions established by the council.

b. No person shall implement an alternative control method except when in possession of a special deer management permit issued by the division pursuant to this act. The permittee shall provide a copy of the permit issued by the division to each individual named in the permit who is authorized to administer the alternate control method.

5. N.J.S.2C:39-3 is amended to read as follows:

Prohibited weapons and devices.

2C:39-3. Prohibited Weapons and Devices.

a. Destructive devices. Any person who knowingly has in his possession any destructive device is guilty of a crime of the third degree.

b. Sawed-off shotguns. Any person who knowingly has in his possession any sawed-off shotgun is guilty of a crime of the third degree.

c. Silencers. Any person who knowingly has in his possession any firearm silencer is guilty of a crime of the fourth degree.

d. Defaced firearms. Any person who knowingly has in his possession any firearm which has been defaced, except an antique firearm or an antique handgun, is guilty of a crime of the fourth degree.

e. Certain weapons. Any person who knowingly has in his possession any gravity knife, switchblade knife, dagger, dirk, stiletto, billy, blackjack, metal knuckle, sandclub, slingshot, cestus or similar leather band studded with metal filings or razor blades imbedded in wood, ballistic knife, without any explainable lawful purpose, is guilty of a crime of the fourth degree.

f. Dum-dum or body armor penetrating bullets. (1) Any person, other than a law enforcement officer or persons engaged in activities pursuant to subsection f. of N.J.S.2C:39-6, who knowingly has in his possession any hollow nose or dum-dum bullet, or (2) any person, other than a collector of firearms or ammunition as curios or relics as defined in Title 18, United States Code, section 921 (a) (13) and has in his possession a valid Collector of Curios and Relics License issued by the Bureau of Alcohol, Tobacco and Firearms, who knowingly has in his possession any body armor breaching or penetrating ammunition, which means: (a) ammunition primarily designed for use in a handgun, and (b) which is comprised of a bullet whose core or jacket, if the jacket is thicker than .025 of an inch, is made of tungsten carbide, or hard bronze, or other material which is harder than a rating of 72 or greater on the Rockwell B. Hardness Scale, and (c) is therefore capable of breaching or penetrating body armor, is guilty of a crime of the fourth degree. For purposes of this section, a collector may possess not more than three examples of each distinctive variation of the ammunition described above. A distinctive variation includes a different head stamp, composition, design, or color.

g. Exceptions. (1) Nothing in subsection a., b., c., d., e., f., j. or k. of this section shall apply to any member of the Armed Forces of the United States or the National Guard, or except as otherwise provided, to any law enforcement officer while actually on duty or traveling to or

from an authorized place of duty, provided that his possession of the prohibited weapon or device has been duly authorized under the applicable laws, regulations or military or law enforcement orders. Nothing in subsection h. of this section shall apply to any law enforcement officer who is exempted from the provisions of that subsection by the Attorney General. Nothing in this section shall apply to the possession of any weapon or device by a law enforcement officer who has confiscated, seized or otherwise taken possession of said weapon or device as evidence of the commission of a crime or because he believed it to be possessed illegally by the person from whom it was taken, provided that said law enforcement officer promptly notifies his superiors of his possession of such prohibited weapon or device.

(2) Nothing in subsection f. (1) shall be construed to prevent a person from keeping such ammunition at his dwelling, premises or other land owned or possessed by him, or from carrying such ammunition from the place of purchase to said dwelling or land, nor shall subsection f. (1) be construed to prevent any licensed retail or wholesale firearms dealer from possessing such ammunition at its licensed premises, provided that the seller of any such ammunition shall maintain a record of the name, age and place of residence of any purchaser who is not a licensed dealer, together with the date of sale and quantity of ammunition sold.

(3) Nothing in paragraph (2) of subsection f. or in subsection j. shall be construed to prevent any licensed retail or wholesale firearms dealer from possessing that ammunition or large capacity ammunition magazine at its licensed premises for sale or disposition to another licensed dealer, the Armed Forces of the United States or the National Guard, or to a law enforcement agency, provided that the seller maintains a record of any sale or disposition to a law enforcement agency. The record shall include the name of the purchasing agency, together with written authorization of the chief of police or highest ranking official of the agency, the name and rank of the purchasing law enforcement officer, if applicable, and the date, time and amount of ammunition sold or otherwise disposed. A copy of this record shall be forwarded by the seller to the Superintendent of the Division of State Police within 48 hours of the sale or disposition.

(4) Nothing in subsection a. of this section shall be construed to apply to antique cannons as exempted in subsection d. of N.J.S.2C:39-6.

(5) Nothing in subsection c. of this section shall be construed to apply to any person who is specifically identified in a special deer management permit issued by the Division of Fish and Wildlife to utilize a firearm silencer as part of an alternative deer control method implemented in accordance with a special deer management permit issued pursuant to section 4 of P.L.2000, c.46 (C.23:4-42.6), while the person is in the actual performance of the permitted alternative deer control method and while going to and from the place where the permitted alternative deer control method is being utilized. This exception shall not, however, otherwise apply to any person to authorize the purchase or possession of a firearm silencer.

h. Stun guns. Any person who knowingly has in his possession any stun gun is guilty of a crime of the fourth degree.

i. Nothing in subsection e. of this section shall be construed to prevent any guard in the employ of a private security company, who is licensed to carry a firearm, from the possession of a nightstick when in the actual performance of his official duties, provided that he has satisfactorily completed a training course approved by the Police Training Commission in the use of a nightstick.

j. Any person who knowingly has in his possession a large capacity ammunition magazine is guilty of a crime of the fourth degree unless the person has registered an assault firearm pursuant to section 11 of P.L.1990, c.32 (C.2C:58-12) and the magazine is maintained and used in connection with participation in competitive shooting matches sanctioned by the Director of Civilian Marksmanship of the United States Department of the Army.

k. Handcuffs. Any person who knowingly has in his possession handcuffs as defined in P.L.1991, c.437 (C.2C:39-9.2), under circumstances not manifestly appropriate for such lawful uses as handcuffs may have, is guilty of a disorderly persons offense. A law enforcement officer shall confiscate handcuffs possessed in violation of the law.

6. Section 1 of P.L.1997, c.268 is amended to read as follows:

C.23:4-42.7 Venison, donation program, permanent.

1. a. The Commissioner of Health and Senior Services, in consultation with the Commissioner of Environmental Protection, the Secretary of Agriculture and the chairman of the Fish and Game Council, shall establish a venison donation program. The program shall permit, under controlled conditions, the slaughter, processing, distribution, and serving of venison donated by recreational hunters to nonprofit charitable organizations, in accordance with guidelines established by the Commissioner of Health and Senior Services and the State Fish and Game Code established pursuant to section 32 of P.L.1948, c.448 (C.13:1B-30), in order to protect the health and safety of those persons consuming the donated venison.

b. The Commissioner of Health and Senior Services, in consultation with the Commissioner of Environmental Protection, the Secretary of Agriculture, the chairman of the Fish and Game Council, and the United Bow Hunters of New Jersey, shall study the feasibility of expanding the program to include venison obtained from hunters licensed by the Department of Environmental Protection to participate in crop depredation control activities or obtained as a result of the implementation of other methods to manage and control deer populations, including but not limited to those established by sections 1 through 4 of P.L.2000, c.46 (C.23:4-42.3 through C.23:4-42.6), and shall expand the program accordingly if the commissioner deems it appropriate.

7. Section 5 of P.L.1997, c.268 is amended to read as follows:

5. This act shall take effect immediately.

Repealer.

8. Section 2 of P.L.1997, c.268 is hereby repealed.

9. There is appropriated from the General Fund to the Department of Agriculture the sum of \$25,000 for the purpose of providing grants to county boards of agriculture for expenses resulting from the implementation of community based deer management plans pursuant to the provisions of P.L.2000, c.46 (C.23:4-42.3 et al.).

10. This act shall take effect immediately.

Approved June 30, 2000.