

RULES AND REGULATIONS

Title 58—RECREATION

GAME COMMISSION

[58 PA. CODE CHS. 141 AND 147]

Training Dogs; Falconry Permits; Sale of Protected Wildlife and Its Parts; and Dog Trial Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 15, 1997, meeting adopted the following changes:

Amend § 141.16 (relating to training dogs on furbearers) by removing current language.

Amend § 147.103 (relating to classes of permits) by permitting the upgrading of an apprentice or general falconer during the permit year.

Amend § 147.141 (relating to the sale of wildlife and wildlife parts) by providing a new fee structure.

Amend Chapter 147, Subchapter L (relating to permits relating to dogs), by adding § 147.223 (relating to permits for dog trials on privately-owned lands) outlining the procedure to apply for dog trial permits to be held on privately-owned lands.

These amendments are hereby adopted under the authority of 34 Pa.C.S. (relating to the Game and Wildlife Code) (code).

Deletion of § 141.16

1. *Introduction*

Under the act of December 19, 1966 (P. L. 442, No. 184) (Act 184), section 2382 of the code (relating to training dogs on small game) was amended to allow dog training any time of the calendar year. Although the amendment provides for the Commission to provide otherwise by regulation, the Commission is currently assessing whether to apply restrictions. Until a decision is made, the Commission, at its January 14, 1997, meeting proposed, and at its April 15, 1997, meeting finally adopted, deleting § 141.16. The section is deleted under the authority contained in section 322 of the code (relating to specific powers and duties) to fix seasons and section 2102 of the code (relating to regulations) which authorizes the promulgation of regulations.

2. *Purpose and Authority*

The code has been changed to allow the training of dogs throughout the year. The Commission is authorized to establish a closed season and it is considering doing so. If the Commission does establish a closed season, it will do so on a comprehensive basis, which means § 141.16 would be deleted in any case. Pending a decision on the impact of year-round dog training, the Commission is removing the restriction with regard to training dogs on furbearers contained in § 141.16.

Section 322(c) of the code authorizes the Commission to fix seasons. Section 2102 of the code authorizes the Commission to promulgate regulations relating to the preservation and management of game and wildlife and seasons. The deletion is made under this authority.

3. *Regulatory Requirements*

The deletion will eliminate a restriction.

4. *Persons Affected*

Individuals wishing to train dogs on furbearers will be affected.

5. *Comment and Response Summary*

No comments were received on the deletion.

6. *Cost and Paperwork*

No additional paperwork will be required.

Amendment to § 147.103

1. *Introduction*

To better provide for the administration of falconry permits, the Commission at its January 14, 1997, meeting proposed, and at its April 15, 1997, meeting finally adopted, removing language from § 147.103 relating to classes of permits, which requires movement to the next higher classification upon renewal of the permit. This change is made under section 2925(a) of the code (relating to falconry permits).

2. *Purpose and Authority*

Currently, falconers who qualify for the next higher classification must wait until the next permit renewal to be upgraded. This often creates backlogs in the renewal process. The change to § 147.103 allows the upgrading of a permit as soon as a falconer qualifies for the next higher classification.

Section 2925(a) of the code provides that: "The Commission may adopt regulations consistent with Federal fish and wildlife laws and regulations concerning the sport of falconry." The change, adopted under this authority, is consistent with Federal law.

3. *Regulatory Requirements*

The change relaxes current requirements.

4. *Persons Affected*

The change will affect those holding apprentice and general falconry permits.

5. *Comment and Response Summary*

No comments were received on the changes.

6. *Cost and Paperwork Requirements*

No additional paperwork will be required.

Amendment to § 147.141

1. *Introduction*

To more effectively manage the wildlife resources of this Commonwealth, the Commission at its January 14, 1997, meeting proposed, and at its April 15, 1997, meeting finally adopted, changes to § 147.141 relating to sale of wildlife and wildlife parts. The changes, which will involve permits to possess wildlife accidentally or illegally killed or orphaned or taken live from the wild, will change or establish fees for some species, provide for the sale of other species at public auction or through sealed bid and tighten qualifications for possession of live deer. Section 2901(b) of the code (relating to regulations for permits) authorizes the Commission to adopt these changes.

2. *Purpose and Authority*

Occasionally wildlife will be accidentally or illegally killed, shot for crop damage or be illegally taken from the wild. Rather than have the wildlife wasted or destroyed,

the Commission will issue permits to individuals to possess wildlife or wildlife parts. A committee formed to study procedures and fees for using these permits has recommended some changes to § 147.141.

Minimum fees for a live deer, a deer hide, other small mammals and bear would be increased and the fee for a coyote would be reduced. A fee for the fisher would also be established. Any unlisted species could be sold through public auction or sealed bid. The changes also call for an individual to have an existing propagation or menagerie permit before he could receive a live deer from the Commission.

Section 2901(b) of the code authorizes the Commission to promulgate regulations for the issuance of any permit. In addition, section 2904(18) of the code (relating to permit fees) authorizes the Commission to set a reasonable fee for any permit which is not specifically set forth.

3. *Regulatory Requirements*

Fees will be increased for certain Commission possession permits. In addition, an individual wishing to receive a live deer will already need to be in possession of a valid propagation or menagerie permit.

4. *Persons Affected*

Individuals wishing to obtain a permit to possess wildlife from the Commission would be affected.

5. *Comment and Response Summary*

No comments were received on the changes.

6. *Cost and Paperwork Requirements*

There will be increased fees for individuals seeking permits under the changes. The number of these individuals would be small.

Addition to § 147.223

1. *Introduction*

To better provide for the issuance of permits for field dog trials, the Commission, at its January 14, 1997, meeting proposed, and at its April 15, 1997, meeting finally adopted, adding § 147.223 to provide procedures for the issuance of field dog trial permits. This additional section is adopted under the authority contained in section 2901(b) of the code

2. *Purpose and Authority*

Sections 2943 and 2944 of the code (relating to field dog trials; and field dog trials for retrievers) both require the obtaining of a permit before holding dog trials or field dog trials for retrievers. Currently, many clubs and organizations sponsoring these dog trials wait until the last minute to apply for a permit and then expect overnight issuance. The requests can be very disruptive. The section requires a written application to be submitted at least 30 days prior to the dog trial date.

Section 2901(b) of the code authorizes the Commission to "... promulgate regulations for the issuance of any permit ..." This is the basis for the new section.

3. *Regulatory Requirements*

Individuals, clubs or organizations wishing to sponsor field dog trials or retriever field dog trials on privately-

owned lands would be required to submit a written application on Commission forms at least 30 days in advance of this trial date. Untimely applications are subject to disapproval.

4. *Persons Affected*

Individuals, clubs and organizations sponsoring field dog trials on privately-owned land would be affected by the new requirements.

5. *Comment and Response Summary*

No comments were received on the regulation.

6. *Cost and Paperwork Requirements*

It is anticipated that there would be little additional cost associated with the new requirement. A written application on a Commission form will need to be submitted.

Effective Date

These changes are effective on publication of final adoption in the *Pennsylvania Bulletin* and remain in effect until changed by the Commission.

Contact Person

For further information on the changes the contact person is James R. Fagan, Director, Bureau of Law Enforcement, (717) 783-6526, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 141 and 147, are amended by deleting § 141.16, amending §§ 147.103 and 147.141 and by adding § 147.223 to read as set forth at 27 Pa.B. 1364 (March 15, 1997).

(b) The Executive Director of the Commission shall submit this order and 27 Pa.B. 1364 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final publication in the *Pennsylvania Bulletin*.

DONALD C. MADL,
Executive Director

Fiscal Note: Fiscal Note 48-98 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 97-904. Filed for public inspection June 6, 1997, 9:00 a.m.]