

PROPOSED RULEMAKING

GAME COMMISSION

[58 PA. CODE CH. 141]
Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed the following rulemaking at its October 6, 2009, meeting:

Amend § 141.22 (relating to small game) to restructure the regulatory provisions relating to small game hunting to promote consistency and clarity in the regulations and also permit the full inclusion of crossbows during the various small game seasons to expand opportunity and increase participation in small game hunting within this Commonwealth.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the October 6, 2009, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until January 15, 2010.

1. Purpose and Authority

In recent years, the Commission has been moving towards a comprehensive restructuring of the regulations attending the code. The goals of this restructuring effort are primarily focused on simplifying and making the language more understandable to its users. In January 2009, the Commission completed its efforts to rewrite the regulatory structures relating to the big game seasons. The Commission intends to carry the theme set forth in these changes to other chapters of the regulations to establish clear correlations between related seasonal information. To this end, the Commission is proposing to amend § 141.22 to restructure the regulatory provisions relating to small game hunting to promote consistency and clarity in the regulations and also permit the full inclusion of crossbows during the various small game seasons to expand opportunity and increase participation in small game hunting within this Commonwealth.

Section 2102(d) of the code (relating to regulations) authorizes the Commission to “promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used.” Section 2102(a) of the code provides that “The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth.” The amendments to § 141.22 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend § 141.22 to restructure the regulatory provisions relating to small game hunting to promote consistency and clarity in the regulations and also permit the full inclusion of crossbows during the various small game seasons to expand opportunity and increase participation in small game hunting within this Commonwealth.

3. Persons Affected

Persons wishing to hunt small game within this Commonwealth may be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking should not result in any additional cost or paperwork.

5. Effective Date

The proposed rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. Contact Person

For further information regarding the proposed rulemaking, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-295. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter B. SMALL GAME

§ 141.22. Small game.

(a) [*Unlawful acts. It is unlawful to:*

(1) **Take small game, protected mammals or protected birds using shot larger than #4 lead, #4 Bismuth/tin or #2 steel.**

(2) **Possess a firearm while hunting with a raptor.**

(3) **Use or possess single projectile ammunition or use or possess single projectile ammunition designed for use in a firearm while hunting small game during the muzzleloading firearms deer or bear season, except for a rimfire rifle or handgun .22 caliber or less. This exception does not apply to the Southeast Special Regulations Area. See § 141.1(b)(2) (relating to special regulations areas).**

(4) **Hunt in a party of more than six persons. This does not apply to waterfowl or dove hunters when hunting from a blind or other stationary positions.**

(5) **Unless otherwise provided in the act or this title, hunt or take small game with anything other than a shotgun with fine shot, muzzleloading rifle or handgun .40 caliber or less, rifle or handgun less than .23 caliber, or bow and arrow with or without broadheads. The caliber restrictions do not apply to rifles or handguns while hunting woodchuck.**

(6) Discharge a firearm within 150 yards of a Commission vehicle releasing pheasants.

(b) *Definition.* For the purpose of enforcing section 2308(a)(4) of the act (relating to unlawful devices and methods), the term “plugged” means a magazine shotgun which is plugged with a one-piece filler, incapable of removal without disassembling the shotgun or magazine.

(c) *Permitted acts.* Woodchucks may be trapped by properly licensed furtakers with permission of the person in charge of the land from February 1 through September 30 and during the general furbearer trapping season. For the purposes of this subsection, a person means a person as defined in section 2121(c) of the act (relating to definition). Traps and methods shall comply with section 2361 of the act (relating to unlawful acts concerning taking of furbearers) except that traps shall be set within 5 feet of any woodchuck hole or den.]

Permitted devices. It is lawful to hunt small game, except woodchucks with the following devices:

(1) A manually operated rimfire rifle or handgun. The firearm must be .23 caliber or less, that projects single-projectile ammunition.

(2) A manually operated or semiautomatic centerfire or muzzleloading shotgun. The firearm must be 10 gauge or less, that projects multiple-projectile shotgun ammunition #4 lead, #4 Bismuth/tin or #2 steel or less.

(3) A muzzleloading rifle or handgun. The firearm must be .40 caliber or less, that projects single-projectile ammunition.

(4) A bow and arrow.

(5) A crossbow and bolt.

(6) A raptor. The raptor must be lawfully possessed under a falconry permit. See §§ 147.101—147.112a (relating to falconry).

(b) *Prohibitions.* It is unlawful to:

(1) Use or possess single-projectile centerfire ammunition, single-projectile rimfire ammunition larger than .23 caliber or multiple-projectile shotgun ammunition larger than #4 lead, #4 Bismuth/tin or #2 steel, except as authorized under section 2525 of the act (relating to possession of firearm for protection of self or others).

(2) Possess a firearm while hunting with a raptor, except as authorized under section 2525 of the act.

(3) Discharge a firearm within 150 yards of a Commission vehicle releasing pheasants.

(4) Use or possess a device not provided for in the act or in this section.

(5) Hunt in a party of more than six persons. This does not apply to waterfowl or dove hunters when hunting from a blind or other stationary position.

(c) *Woodchucks (Groundhogs).*

(1) *Permitted devices.* It is lawful to hunt woodchucks with the following devices:

(i) A manually operated centerfire or rimfire rifle or handgun.

(ii) A manually operated, centerfire or muzzle-loading shotgun.

(iii) A muzzleloading rifle or handgun.

(iv) A bow and arrow.

(v) A crossbow and bolt.

(2) *Prohibitions.* While hunting woodchucks, it is unlawful to use or possess a device or ammunition not provided for in this section.

[Pa.B. Doc. No. 09-2146. Filed for public inspection November 20, 2009, 9:00 a.m.]

[58 PA. CODE CH. 147]

Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed the following rulemaking at its October 6, 2009, meeting:

Amend §§ 147.902 and 147.904 (relating to definitions; and permit) to specifically authorize properly permitted individuals to engage in commercial coyote guiding activities on State game lands (SGLs).

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the October 6, 2009, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until January 15, 2010.

1. Purpose and Authority

In July 2009, the Commission added Subchapter Y to Chapter 147 to relocate, consolidate and more clearly define the permitting process for persons interested in guiding other hunters or trappers for certain designated species. The Commission has recently been approached by a number of houndsmen who have formally requested the expansion of this newly created subchapter to authorize commercial coyote guiding activities on SGLs. To this end, the Commission is proposing to amend §§ 147.902 and 147.904 to specifically authorize properly permitted individuals to engage in commercial coyote guiding activities on SGLs.

Section 2901(b) of the code (relating to authority to issue permits) provides “the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued.” The amendments to §§ 147.902 and 147.904 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend §§ 147.902 and 147.904 to specifically authorize properly permitted individuals to engage in commercial coyote guiding activities on SGLs.

3. Persons Affected

Persons wishing to engage in commercial coyote guiding activities on SGLs will be affected by the proposed rulemaking.

4. *Cost and Paperwork Requirements*

The proposed rulemaking should not result in any additional cost or paperwork.

5. *Effective Date*

The proposed rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. *Contact Person*

For further information regarding the proposed rulemaking, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-296. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter Y. GUIDING PERMIT

§ 147.902. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Commercial guiding activity—Any guiding activity provided by any person to another person for any fee, remuneration or other economic gain, including bartered goods or services.

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Guiding activity—

(i) The act of assisting or conspiring to assist another person in any manner to hunt, trap or otherwise take certain designated species of wildlife by locating, calling or directing another person to the quarry.

(ii) The term is not intended to include or authorize the assistance taking the form of any overt act directly connected with harvesting wildlife by discharging a firearm, bow or crossbow or setting or resetting a trap or cable restraints.

§ 147.904. Permit.

(a) *General rule.* A guiding permit issued under this subchapter is required for any person to engage in any **commercial or noncommercial guiding [activities] activity** for the following designated species of wildlife: elk and bobcat. **A guiding permit is required for any person to engage in any commercial guiding activity for coyotes on State game lands.**

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[Pa.B. Doc. No. 09-2147. Filed for public inspection November 20, 2009, 9:00 a.m.]

[58 PA. CODE CH. 137]

Wildlife

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed the following rulemaking at its October 6, 2009, meeting:

Amend § 137.1 (relating to importation, possession, sale and release of certain wildlife) to exempt menagerie permit holders who possess a USDA Class C Exhibitor permit and who operate their menagerie facilities as their primary means of gaining a livelihood from possession and importation prohibitions of this section.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the October 6, 2009, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until January 15, 2010.

1. *Purpose and Authority*

Currently, § 137.1 prohibits the importation of certain species of exotic and native wildlife determined to be dangerous or injurious to the public, native wildlife or native wildlife habitat, such as nutria, bears and primates. This prohibition applies to all persons including those currently possessing exotic wildlife dealer, exotic wildlife possession and menagerie permits. The Commission has recently been approached by a number of menagerie permit holders who have alleged that these importation restrictions unnecessarily restrict their ability to import and possess certain “popular” wildlife and thus limit their ability to gain a livelihood. These menagerie permit holders have formally requested relief from these importation and possession restrictions. To this end, the Commission is proposing to amend § 137.1 to exempt menagerie permit holders who possess a USDA Class C Exhibitor permit and who operate their menagerie facilities as their primary means of gaining a livelihood from possession and importation prohibitions of this section.

Section 2901(b) of the code (relating to authority to issue permits) provides “the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued.” The amendments to § 137.1 were proposed pursuant to this authority.

2. *Regulatory Requirements*

The proposed rulemaking will amend § 137.1 to exempt menagerie permit holders who possess a USDA Class C Exhibitor permit and who operate their menagerie facilities as their primary means of gaining a livelihood from possession and importation prohibitions of this section.

3. *Persons Affected*

Persons wishing to import or possess otherwise prohibited wildlife into this Commonwealth may be affected by the proposed rulemaking.

4. *Cost and Paperwork Requirements*

The proposed rulemaking should not result in any additional cost or paperwork.

5. *Effective Date*

The proposed rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. *Contact Person*

For further information regarding the proposed rulemaking, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-294. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 137. WILDLIFE

§ 137.1. Importation, possession, sale and release of certain wildlife.

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(d) A person wishing to import lawfully acquired wildlife, or parts thereof, shall first obtain an importation permit from the Commission subject to the following:

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(4) Menagerie permittees who also possess a USDA Class C Exhibitor permit and who operate a menagerie facility as their primary means of making a livelihood, are exempt from the possession prohibition of this section, and may import lawfully acquired wildlife pursuant to an importation permit.

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