

2009 Bill 26

Second Session, 27th Legislature, 58 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 26

WILDLIFE AMENDMENT ACT, 2009

MR. MITZEL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 26
Mr. Mitzel

BILL 26

2009

WILDLIFE AMENDMENT ACT, 2009

(Assented to , 2009)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Amends RSA 2000 cW-10

1 The *Wildlife Act* is amended by this Act.

2 Section 1(1) is amended by renumbering clause (m) as clause (f.1) and relocating it accordingly.

3 Section 41(1) is repealed and the following is substituted:

Prohibition against spoilage, etc., of skin and flesh

41(1) A person who has killed or is in possession of a game bird or big game animal, other than a mountain lion or bear, shall not

- (a) abandon any of its flesh that is fit for human consumption,
- (b) destroy any such flesh, or
- (c) allow any such flesh to become unfit for human consumption.

4 Section 60(3) is repealed and the following is substituted:

(3) The Minister may recapture or attempt to recapture

Explanatory Notes

1 Amends chapter W-10 of the Revised Statutes of Alberta 2000.

2 Alphabetical order (and relocation) correction only.

3 Section 41(1) presently reads:

41(1) A person who has killed or is in possession of a game bird or big game animal, other than a mountain lion or bear, shall not allow its edible flesh to be wasted, destroyed, spoiled or abandoned.

4 Section 60 presently reads in part:

- (a) the escaped animal referred to in subsection (2), or
- (b) a wildlife or controlled animal that has been unlawfully released from permit premises or a domestic cervid production farm,

and assess the direct or indirect costs incurred by the Crown in recapturing or attempting to recapture it, including the cost of any damage caused by the animal or by efforts to recapture it and any cost incurred in returning it, to the owner or other person in charge of the permit premises or farm when the animal escaped or was so released.

(4) If the Minister considers that attempting a recapture under subsection (3) would be impracticable, unduly expensive or against the public interest, the Minister may instead destroy and dispose of the escaped or released animal and assess the direct and indirect costs of the destruction and of the disposal of the carcass incurred by the Crown, including the cost of transporting the animal to its places of destruction and disposal and the cost of any damage caused by the animal or the destruction, to the owner or other person referred to in subsection (3).

5 Section 66 is repealed and the following is substituted:

Entry on and the passing over of land

66(1) A wildlife officer or wildlife guardian may, without a warrant, enter on and pass over any land while lawfully engaged in the exercise of powers or the performance of duties or functions given him or her by, or that otherwise relate to the enforcement of, this Act, including those implied by section 65.

(2) Subsection (1) does not in itself authorize the entry into any tent, building or other structure or any search or seizure.

(3) The officer or guardian, while lawfully engaged in the entry on or the passing over of the land in accordance with subsection (1), is liable only for damage that he or she wilfully causes.

6 Section 67(1) is amended by striking out “in the execution of the officer’s duties” and substituting “while lawfully engaged in

(2) Where a wildlife or controlled animal escapes from captivity on permit premises or a domestic cervid production farm, the owner or person in charge of the permit premises or farm shall

(a) make reasonable efforts to recapture the animal, and

(b) ensure that the escape is reported to an appointed officer within the prescribed period or, if no such period is prescribed, within 48 hours after the escape, unless it is recaptured within that period.

(3) The Minister may recapture or attempt to recapture the escaped animal and assess the cost directly or indirectly incurred by the Crown in recapturing or attempting to recapture it, including any damage caused by the animal or by efforts to recapture it, to the owner or person in charge of the permit premises or farm before the animal escaped.

5 Section 66 presently reads:

66(1) A wildlife officer or wildlife guardian may, without a warrant, enter on or pass over any land in the execution of the officer's or guardian's duties, and while so engaged is liable only for damage that the officer or guardian wilfully causes.

(2) Subsection (1) does not authorize the entry into any building, tent or other structure or the search or seizure of any property on the land.

6 Section 67(1) presently reads:

the exercise of powers or the performance of duties or functions referred to in section 66(1)".

7 Section 71 is amended

(a) in subsection (1)

(i) by striking out "likelihood of the removal or destruction" **and substituting** "imminent danger of the loss, removal, destruction or disappearance";

(ii) in clause (a)

(A) by adding "any premises or" **after** "search";

(B) by striking out "or" **at the end;**

(iii) by adding the following after clause (a):

(a.1) search any land lawfully entered on under section 66,
or

(b) by adding the following after subsection (1):

(1.1) A wildlife officer or wildlife guardian who has reasonable and probable grounds to believe that the lawful exercise of any powers or the lawful performance of any duties or functions referred to in section 66(1) necessitates the examination or inspection of anything or any location referred to in subsection (1)(a), (a.1) or (b) or of any subject animal or other property may, without a warrant, perform that examination or inspection, as the case may be.

67(1) A wildlife officer, in the execution of the officer's duties, may signal or otherwise order

(a) a person operating a vehicle, aircraft or boat or riding or leading a pack-animal to stop it forthwith or to move it to a particular place and then stop it, or

(b) a person carrying a pack to stop,

and that person shall forthwith comply with that signal or order and shall not proceed until the end of any period of time that is reasonably necessary to enable the officer to conduct any lawful inquiries.

7 Section 71 presently reads:

71(1) If distance, urgency, the likelihood of the removal or destruction of evidence or other relevant factors do not reasonably permit the obtaining of a warrant, a wildlife officer or wildlife guardian may, without obtaining a warrant,

(a) enter into and search a place, vehicle, aircraft, boat or a building, tent or other structure, or

(b) search any container, including a pack, or any pack-animal,

if the officer or guardian believes on reasonable and probable grounds that there is in or on it any evidence of an offence against this Act.

(2) The officer or guardian shall not enter into or search the living quarters of a private dwelling under subsection (1) unless the officer or guardian is in immediate pursuit of a person who the officer or guardian has reasonable and probable grounds to believe has committed an offence against this Act.

(c) in subsection (2) by striking out “subsection (1)” and substituting “this section”;

(d) by adding the following after subsection (2):

(3) The power to conduct a search, examination or inspection under this section must

(a) be exercised at a reasonable hour having regard to the circumstances underlying the reasonably perceived need for the search, examination or inspection, and

(b) be exercised in accordance with the prescribed restrictions.

8 Section 85 is amended

(a) by adding the following after subsection (3):

(3.1) Without limiting subsection (3), in a prosecution of an offence against this Act, a certificate signed by a person designated in writing by the Minister for the purposes of this subsection certifying that a subject animal or an endangered animal has been examined by the person and that the flesh of the animal is or was at the stated time either fit or not fit for human consumption shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the facts relating to the animal stated in the certificate and of the authority of the person signing the certificate, without further proof of the person’s signature or qualifications.

(b) in subsection (5) by adding “, (3.1)” after “(3)”.

8 Section 85 presently reads in part:

(3) In a prosecution of an offence against this Act, a certificate signed by a person in charge of a forensic laboratory operated, maintained or supported by the Government of Canada or of a province or territory certifying that a subject animal or an endangered organism has been examined by the person or by someone under the person's administration and that the organism is of a certain species, age or sex or in a certain condition shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the facts relating to the organism stated in the certificate and of the authority of the person signing the certificate, without further proof of the person's appointment or signature or of the qualifications of either person.

(5) An accused against whom a certificate under subsection (3) or (4) is produced may, with leave of the Court and for the purposes of cross-examination, require the attendance of the person who performed the examination.

(6) A certificate under this section shall not be received in evidence unless the party intending to produce it has given to the accused reasonable notice of the party's intention together with a copy of the certificate.

(7) In addition to any other method of service permitted by law, a certificate or notice under this section may be served on the accused by registered mail sent to the address given by the accused to the wildlife officer or wildlife guardian when the accused was charged.

9 Section 92(3) is amended by striking out “or” at the end of clause (b) and by adding the following after clause (b):

- (b.1) against section 59(1) if the offence relates to wildlife with respect to which a permit referred to in that subsection may not be lawfully issued, or

10 The following is added after section 96:

Satisfaction or compensation for loss of property

96.1(1) Where a person is convicted by a court of an offence against this Act, the court may, on the application of a person (in this section referred to as the “property victim”) alleging to have suffered loss of or damage to property as a result of the circumstances underlying the offence, order the convicted person to pay to the property victim an amount by way of satisfaction or compensation for loss of or damage to property suffered by the property victim as a result of those circumstances.

(2) A property victim who gets an order under subsection (1) may file the order with the clerk of the Court of Queen’s Bench and, on its filing, the order may be enforced as if it were a judgment of the Court of Queen’s Bench in civil proceedings.

11 The following provisions are amended by adding “by a court” after “is convicted”:

section 96;
section 97;
section 101(2).

9 Section 92 presently reads in part:

92(1) A person who is convicted of

(a) an offence specified in subsection (3), or

is liable to a fine of not more than \$100 000 or to imprisonment for a term of not more than 2 years, or both.

(3) The offences referred to in subsection (1)(a) are offences

(a) against section 35, 55(3) or 62(1) or (2),

*(b) against section 25(1), if the wildlife is an endangered animal,
or*

*(c) involving a contravention of any other provision of this Act
that involves the hunting of a grizzly bear.*

10 Satisfaction or compensation for loss of property.

11 Addition of references to “a court” (as in section 10) where the referenced conviction can be only by a court (rather than under the non-court appearance process).

12 The Schedule is amended by repealing sub-item 1 of Item 5 and substituting the following:

1 The parts of game birds or big game that are fit for human consumption.

13 The *Wildlife Amendment Act, 2003* is amended by repealing section 11.

12 Sub-item 1 of Item 5 of the Schedule presently reads:

1 The edible parts of game birds or big game.

13 Repeal of unproclaimed enactment.

