

3-1-2000

GAME AND FISH Licenses, Permits, and Stamps Generally: Add Provisions Allowing Department of Natural Resources To issue Trapping and Hunting Permits Under Circumstances Where Such Action Is Otherwise Prohibited by Law; Add Requirement for Department of Natural Resources To Specify the Conditions Where It Deems Such Permits Necessary; Provide an Exception for Such Permits

Kristin Gee

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Recommended Citation

Kristin Gee, *GAME AND FISH Licenses, Permits, and Stamps Generally: Add Provisions Allowing Department of Natural Resources To issue Trapping and Hunting Permits Under Circumstances Where Such Action Is Otherwise Prohibited by Law; Add Requirement for Department of Natural Resources To Specify the Conditions Where It Deems Such Permits Necessary; Provide an Exception for Such Permits*, 17 GA. ST. U. L. REV. (2000).

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GAME AND FISH

*Licenses, Permits, and Stamps Generally: Add Provisions
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Exception for Such Permits*

CODE SECTION: O.C.G.A. § 27-2-31 (new)
BILL NUMBER: HB 1409
ACT NUMBER: 542
GEORGIA LAWS: 2000 Ga. Laws 418
SUMMARY: The Act allows the Department of Natural Resources (DNR) to issue permits to trap, transport and release, or kill wildlife and feral hogs when such action is otherwise prohibited by law. The law allows removal of white-tailed deer from airport property, only in the interest of public safety. With respect to fur-bearing animals, the DNR must approve and implement a bona fide wildlife management plan, and with respect to feral hogs, DNR-approved activities must comply with the Georgia Department of Agriculture's rules and regulations. The DNR must prescribe all methods and details of animal control. Furthermore, the DNR cannot issue a permit to remove any species protected by the federal Endangered Species Act of 1973, or any other state law or regulation that protects endangered or threatened species.

EFFECTIVE DATE: April 19, 2000¹

1. See 2000 Ga. Laws 418, §§ 2-3, at 419-20. The Act took effect upon approval by the

History

Farmers and other rural landowners complained to state legislators that wildlife and feral hogs have destroyed their crops and buildings, and sometimes even threatened people.² Prior to the passage of the Act, landowners who had problem wildlife on their property had to notify the Georgia Department of Natural Resources (DNR), which then sent an agent to investigate and remove the problem wildlife.³ This Act enables landowners and users to handle their own wildlife problems by either killing the animals or capturing and transporting the animals for release in another area, depending on the DNR's instruction, thus saving time and resources.⁴

*HB 1409**Introduction*

Representatives Bob Lane, Greg Morris, Charles Poag, and Jim Stokes, of the 146th, 155th, 6th, and 92nd House Districts, respectively, sponsored HB 1409.⁵ Chairman Lane⁶ introduced the bill on the House floor on February 10, 2000.⁷ The House assigned the bill to its Committee on Game, Fish & Parks, which favorably reported the bill, as substituted.⁸ The House adopted the Committee substitute with an additional floor amendment, and passed the bill unanimously on February 22, 2000.⁹

Governor. *See id.*

2. *See* Audio Recording of Senate Proceedings, Mar. 9, 2000 (remarks by Sen. Hugh M. Gillis), <http://www.ganet.org/services/leg/audio/2000archive.html> [hereinafter Senate Audio]; *Lawmakers 2000* (GPTV broadcast, Mar. 9, 2000) (remarks by Sen. Hugh M. Gillis) (on file with the *Georgia State University Law Review*).

3. *See* Audio Recording of House Proceedings, Feb. 22, 2000 (remarks by Rep. Bob Lane) <<http://www.ganet.org/services/leg/audio/2000archive.html>> [hereinafter House Audio]; *Lawmakers 2000* (GPTV broadcast, Feb. 22, 2000) (remarks by Rep. Bob Lane) (on file with the *Georgia State University Law Review*).

4. *See* Senate Audio, *supra* note 2.

5. *See* HB 1409, as introduced, 2000 Ga. Gen. Assem.

6. Rep. Lane is Chairman of the House Committee on Game, Fish & Parks.

7. *See* State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

8. *See id.*

9. *See* Georgia House of Representatives Voting Record, HB 1409 (Feb. 22, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

On February 23, 2000, the bill was assigned to the Senate Natural Resources Committee, which favorably reported the bill, as substituted, on March 3, 2000.¹⁰ The Senate adopted the Committee substitute and unanimously passed the bill on March 9, 2000.¹¹ The Senate returned the bill to the House on March 13, 2000, and the House concurred unanimously with the Senate's amendments.¹² On March 27, 2000, the General Assembly forwarded the bill to Governor Roy Barnes, who signed HB 1409 into law on April 19, 2000.¹³

Consideration by the House Committee on Game, Fish & Parks

Upon introduction, the House assigned the bill to its Committee on Game, Fish & Parks.¹⁴ The Committee favorably reported the bill, as substituted, on February 15, 2000.¹⁵ The Committee substitute removed the definition of wildlife as "any nondomesticated species except bears and white-tailed deer" and feral hogs from section 1(a).¹⁶ However, the Committee re-inserted feral hogs into section 1(a) after the term "wildlife," which the Committee left undefined.¹⁷ The Committee substitute also added section 1(a)(2), to authorize the DNR to issue wildlife control permits to trap, transport and release, or kill white-tailed deer on airport property.¹⁸ Section (1)(a)(2) requires the permits to be issued for public safety purposes only.¹⁹ Furthermore, control of white-tailed deer for other

10. See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

11. See Georgia Senate Voting Record, HB 1409 (Mar. 9, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

12. See Georgia House of Representatives Voting Record, HB 1409 (Mar. 13, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

13. See 2000 Ga. Laws 418, § 3, at 420; State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

14. See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

15. See *id.*

16. Compare HB 1409, as introduced, 2000 Ga. Gen. Assem., with HB 1409 (HCS), 2000 Ga. Gen. Assem.

17. Compare HB 1409, as introduced, 2000 Ga. Gen. Assem., with HB 1409 (HCS), 2000 Ga. Gen. Assem.

18. Compare HB 1409, as introduced, 2000 Ga. Gen. Assem., with HB 1409 (HCS), 2000 Ga. Gen. Assem. See also O.C.G.A. §§ 27-2-18, 27-3-21 (1997).

19. See HB 1409 (HCS), 2000 Ga. Gen. Assem.

purposes and the removal of black bear are governed by Code sections 27-2-18 and 27-3-21, respectively.²⁰

From the House Committee on Game, Fish & Parks to the House Floor

The House altered the bill before unanimously passing it on February 22, 2000.²¹ The House floor amendment added subsection (1)(a)(4), which would have permitted the DNR to issue wildlife control permits “[f]or fallow or other non-native or exotic deer or antelope.”²² Thus, the House floor amendment would have allowed the DNR to issue permits to trap or kill fallow or exotic deer or antelope when the deer or antelope were totally enclosed on property owned or controlled by the permittee.²³

Consideration by the Senate Natural Resources Committee

Upon introduction, the Senate assigned the bill to its Natural Resources Committee.²⁴ The Senate Committee substitute removed the language added in the House floor amendment, which added fallow or exotic deer or antelope to the list of wildlife the bill covered.²⁵ Instead, the Senate Committee added a provision in Section 1(a)(4) that required all DNR-authorized activities concerning feral hogs to comply with the Georgia Department of Agriculture’s rules and regulations.²⁶

From Senate Committee Substitute to Version as Passed

The bill moved to the Senate floor where it adopted the Committee substitute and unanimously passed the bill on

20. *See id.*

21. *See* Georgia House of Representatives Voting Record, HB 1409 (Feb. 22, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

22. *Compare* HB 1409 (HCS), 2000 Ga. Gen. Assem., *with* HB 1409 (HCSFA), 2000 Ga. Gen. Assem.

23. *Compare* HB 1409 (HCS), 2000 Ga. Gen. Assem., *with* HB 1409 (HCSFA), 2000 Ga. Gen. Assem.

24. *See* State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

25. *Compare* HB 1409 (HCSFA), 2000 Ga. Gen. Assem., *with* HB 1409 (SCS), 2000 Ga. Gen. Assem.

26. *Compare* HB 1409 (HCSFA), 2000 Ga. Gen. Assem., *with* HB 1409 (SCS), 2000 Ga. Gen. Assem.

March 9, 2000.²⁷ Next, the bill returned to the House from the Senate on March 13, 2000, where the House unanimously agreed to the Senate substitute.²⁸ Governor Roy Barnes signed HB 1409 into law on April 19, 2000.²⁹

The Act

Section 1 of the Act adds Code section 27-2-31, concerning licenses, permits, and stamps, generally, to authorize the Department of Natural Resources to issue wildlife control permits at times that would otherwise be prohibited by law or regulation.³⁰ Thus, permittees can trap, transport and release, or kill wildlife and feral hogs under several circumstances listed in the Act.³¹ First, the DNR can issue wildlife control permits when it determines that the presence of the wildlife or feral hogs poses a danger or threat of injury to people, "agricultural crops, domestic animals, buildings, structures, or other personal property."³² Second, the DNR can issue a permit for the killing or removal of white-tailed deer on airport property when the DNR finds that the existence of the deer poses a threat to public safety.³³ The Act does not allow the control of white-tailed deer for any other purpose, or the control of black bear for any purpose.³⁴ Third, the DNR must approve and implement a bona fide wildlife management plan before issuing permits for fur-bearing animals.³⁵ Fourth, the DNR must comply with the Georgia Department of Agriculture's rules and regulations when issuing permits authorizing the control of feral hogs.³⁶

When issuing a permit, the DNR must authorize all elements of the capture and relocation or killing of the animal, including the method, means, species, number, time limits, location, and

27. See Georgia Senate Voting Record, HB 1409 (Mar. 9, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

28. See Georgia House of Representatives Voting Record, HB 1409 (Mar. 13, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

29. See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

30. See O.C.G.A. § 27-2-31 (Supp. 2000).

31. See *id.* § 27-2-31(a).

32. See *id.* § 27-2-31(a)(1).

33. See *id.* § 27-2-31(a)(2).

34. See *id.* The removal of white-tailed deer for other purposes and the removal of black bear are controlled by Code sections 27-2-18 and 27-3-21, respectively. See *id.*

35. See *id.* § 27-2-31(a)(3).

36. See *id.* § 27-2-31(a)(4).

any other conditions the DNR deems necessary.³⁷ The DNR cannot authorize the taking of any species protected by the Endangered Species Act of 1973, as amended, or any species protected by state law or regulation.³⁸ Ultimately, the DNR must balance public safety with the goal of maintaining the wildlife population.³⁹

Kristin W. Gee

37. *See id.* § 27-2-31(b).

38. *See id.* § 27-2-31(c).

39. *See id.* § 27-2-31(b).