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Chapter 921: WILDLIFE CAUSING DAMAGE OR NUISANCE

§12404. Specific animals

1. Bear. This subsection applies to the taking or killing of bear found doing damage.

A. Section 12402 does not prohibit the taking or killing of bear found doing damage to blueberry land. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. The commissioner may issue a permit to any licensed beekeeper, or to a person entrusted with the custody of the beehives of a licensed beekeeper, authorizing that person to protect beehives from damage by bear. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

C. The commissioner may suspend the game laws relating to bears in such restricted localities and for such periods of time as the commissioner finds it advisable to relieve excessive damage being done by bears to sweet corn or other crops. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

D. The commissioner may suspend subsection 6 for the purpose of allowing dogs to be used in hunting and killing bears, providing the dogs are under the personal supervision of the owner at all times, for such periods of time as the commissioner finds it advisable. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

2. Beaver. A person may not take or kill beaver under sections 12401 and 12402. The commissioner may cause agents of the department to take nuisance beaver at any time.

A person who violates this subsection commits a Class E crime.

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §242 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

3. Birds. A person may not take or kill wild birds, with the exception of rock doves and wild turkeys under sections 12401 and 12402.

A person who violates this subsection commits a Class E crime.



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department shall furnish to the owner or agent of the orchards and crops suitable repellents without cost to the owner or agent. The commissioner may follow other good conservation practices to alleviate the damage. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. Whenever the commissioner determines it impossible to keep deer from doing damage to young orchards, the commissioner may enter into an agreement with the owner of a young orchard in which the department assumes 1/2 the cost of fencing the orchard. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §242 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

6. Dogs. This subsection applies to nuisance dogs.

A. A game warden may kill a dog outside the enclosure or immediate care of its owner or keeper when the game warden finds that dog:

(1) Chasing, killing, wounding or pursuing a moose or deer at any time;

(2) Chasing, killing, wounding or pursuing any other wild animal in closed season; or

(3) Worriying, wounding or killing a domestic animal, livestock or poultry. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §243 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

B. An owner of domestic animals, livestock or poultry, a member of the owner's family or a person to whom is entrusted the custody of domestic livestock or poultry may kill any dog killing or attacking the domestic animals, livestock or poultry. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

C. A person having evidence of a dog chasing, killing, wounding or pursuing moose or deer or any other wild animal in closed season may present that evidence to the commissioner or any game warden.

(1) The commissioner or game warden shall give notice in writing to the owner or keeper of the dog, stating the acts committed by the dog.

(2) After the owner or keeper of the dog has received written notice that the dog has committed any act prohibited by paragraphs E-1, E-2, F and G, anyone may kill the dog when it is found committing any of those prohibited acts. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §243 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

D. [2003, c. 552, §15 (AFF); 2003, c. 552, §14 (RP); 2003, c. 614, §9 (AFF); 2003, c. 655, Pt. C, §§2, 6 (AFF).]

E. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §243 (RP).]

E-1. Except as provided in paragraphs F and G, the owner or keeper of a dog is in violation of this paragraph if that owner's or keeper's bird dog, retrieving dog or hound dog is found killing or wounding a moose, deer or wild turkey during a period in which it is lawful to train dogs, as provided for in section 12051, subsection 1, while the dog is at a licensed dog training area or at a licensed trial for retrieving dogs.

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(1) A person who violates this paragraph commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

(2) A person who violates this paragraph after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

[2003, c. 655, Pt. B, §243 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

F. The owner or keeper of a dog is in violation of this paragraph if that owner's or keeper's dog is found chasing or pursuing a moose, deer or wild turkey at any time or any other wild animal in closed season.

(1) A person who violates this paragraph commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

(2) A person who violates this paragraph after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §243 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

G. The owner or keeper of a dog is in violation of this paragraph if that owner's or keeper's dog is found killing or wounding a moose, deer or wild turkey at any time or any other wild animal in closed season.

(1) A person who violates this paragraph commits a civil violation for which a fine of not less than \$500 nor more than \$1,000 may be adjudged.

(2) A person who violates this paragraph after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

[2005, c. 477, §14 (AMD).]

[2005, c. 477, §14 (AMD) .]

7. Muskrat. The commissioner may declare an open season on muskrats that are polluting water supplies or damaging property if the owner makes a written complaint to that effect to the commissioner.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

8. Raccoons. The commissioner may suspend the game laws relating to raccoons in such restricted localities and for such periods of time as the commissioner finds it advisable to relieve excessive damage being done by raccoons to sweet corn or other crops. The commissioner may suspend subsection 6 for the purpose of allowing dogs to be used in hunting and killing raccoons, providing the dogs are under the personal supervision of the owner at all times, for such periods of time as the commissioner finds it advisable.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 552, §14 (AMD). 2003, c. 552, §15 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §§B242,243 (AMD). 2003, c. 655, §§B422,C2,6 (AFF). 2005, c. 477, §14 (AMD).



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