

LAWS OF DELAWARE
VOLUME 81
CHAPTER 377
149th GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 156
AS AMENDED BY
HOUSE AMENDMENT NO. 2
AND
HOUSE AMENDMENT NO. 3
AND
HOUSE AMENDMENT NO. 4

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO CONSERVATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 704, Title 7 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 704. Prohibited hunting and trapping devices and methods; confiscation of devices; primitive weapon season.

(a) No person shall make use of any pitfall, deadfall, scaffold, cage, snare, trap, net, pen, baited hook, lure, urine or baited field or any other similar device for the purpose of injuring, capturing or killing birds or animals protected by the laws of this State, except red foxes, muskrats, raccoon, opossum, minks, otters, beavers and rabbits may be trapped and snapping turtles may be trapped or taken with a net in accordance with the regulations of the Department of Natural Resources and Environmental Control, and except as otherwise expressly provided. Landlords and tenants and their respective children may take rabbits in traps and snares during the open season for same on their freeholds and leaseholds respectively. For purposes of this section, the term "lure" means any mixture of ingredients intended to be placed at the trap location for the purpose of masking human odor or attracting wildlife. The term "lure" does not include any tangible objects such as duck or goose decoys or similar tangible devices used while hunting nor does the term include any mixture of ingredients intended for the purpose of masking human odor or attracting deer while deer hunting.

(b) No person shall make use of any drug, poison, chemical or explosive for the purpose of injuring, capturing or killing birds or animals protected by the laws of this State.

(c) The unlawful setting or placing of any of the devices or contrivances named in subsection (a) or (b) of this section is an offense against this section, and such devices and contrivances, when found unlawfully set or placed, shall be confiscated by the Department and disposed of as the Department sees fit.

(d) No person shall shoot at, or kill any bird or animal protected by the laws of this State with any device, swivel or punt gun, or with any gun other than such as is habitually raised at arm's length and fired from the shoulder. Possession of such illegal device or gun while hunting shall be prima facie evidence of an offense under this subsection.

(e) No person shall use for hunting or have in their possession while hunting any shotgun shells loaded with lead or lead alloy missiles larger than No. 2 shot, except ammunition permitted for hunting deer during the lawful open season for deer.

(f) A muzzle-loading rifle, meaning a single-barrel gun which is loaded with black powder and projectile through the muzzle, having distinct rifling the full length of the bore, shooting a spherical or conical projectile, ignited by a flint striking a frizzen or by a percussion cap, having a minimum bore of 0.42 inches (10.67 mm), minimum powder charge of 62 grains (4 grams), may be used in the pursuit, taking or attempted taking ("hunting") of protected wildlife, provided:

(1) Such hunting takes place during the primitive weapon season established by the Department of Natural Resources and Environmental Control and is done pursuant to the requirements of law applicable to other means of hunting protected wildlife.

(2) No person engaged in such hunting shall possess or use any multi-projected loads (buck and ball), explosive bullets or any balls smaller than .42 caliber.

No weapon may be used for hunting deer during the primitive weapon season other than a muzzle-loading rifle or bow. The Department may permit the use of a single shot muzzle-loading pistol being a minimum .42 caliber with a minimum powder charge of 40 grains during the primitive weapons season for deer, when using a muzzle-loading rifle to provide the coup-de-grace, if required.

(g) Except as set forth herein, no person may use a handgun or rifle in the pursuit, taking or attempted taking (hunting) of protected wildlife. A handgun or rifle as described herein may be used for the pursuit, taking and attempted taking (hunting) of deer on privately owned lands situated south of the Chesapeake and Delaware Canal and those lands within the State owned by the State of Delaware so designated for this purpose by the Department of Natural Resources and Environmental Control, at its discretion, under the following conditions:

(1) The handgun shall be limited to revolvers and single shot pistols with a minimum barrel length of 5.75 inches and not exceeding 12.5 inches and chambered for and using straight-wall handgun ammunition in ~~.357 magnum, .41 caliber, .41 magnum, .44 caliber, 44 magnum, .45 caliber, .454 caliber, .480 caliber or .50 caliber and using open sights, metallic/mechanical, optical or telescopic sights~~ .357 to .38 caliber with a cartridge case length of no less than 1.25 inches and a maximum case length of 1.82 inches, or in .41 caliber to a maximum of .50 caliber and a maximum case length of 1.82 inches;

(2) The handgun must be carried openly on a sling or in a holster and not concealed;

(3) The rifle shall be limited to rifles:

a. Using open, metallic/mechanical, optical, or telescopic sights;

b. Chambered for and using straight-walled ammunition as defined in (g)(1) above; and

c. Loaded with no more than 3 cartridges in the chamber and magazine combined.

~~(3)~~(4) To be used as follows:

a. ~~During~~ A handgun or rifle may be used during a separate 7-day season to begin on the first Saturday in January through the second Saturday in January; and

b. ~~In~~ A handgun or rifle may be used in place of a shotgun during the shotgun deer season(s).

(h) No person shall operate, provide, sell, use, or offer to operate, provide, sell, or use any computer software or service that allows a person not physically present at a hunt site to remotely control a weapon that could be used to take a live animal or bird by remote operation, including, but not limited to, weapons or devices set up to fire through the use of the Internet or through a remote control device.

Approved August 12, 2018