

23:4-25; 23:4-50

LEGISLATIVE HISTORY CHECKLIST

WJSA 23:4-25; 23:4-50 (Hawks & owls--protection)
LAWS OF 1979 CHAPTER 212
Bill No. A1665
Sponsor(s) Totaro
Date Introduced Sept. 25, 1978
Committee: Assembly Agriculture and Environment
Senate Energy and Environment
Amended during passage Yes No
Date of Passage: Assembly Jan. 16, 1979
Senate June 11, 1979
Date of approval Sept. 28, 1979

Following statements are attached if available:

Sponsor statement	Yes	No
Committee Statement: Assembly	Yes	No
Senate	Yes	No
Fiscal Note	Yes	No
Veto message	Yes	No
Message on signing	Yes	No

Following were printed:

Reports	Yes	No
Hearings	Yes	No

EJ

9/1/78

MAY 1980

ASSEMBLY, No. 1665

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 25, 1978

By Assemblywoman TOTARO

Referred to Committee on Agriculture and Environment

AN ACT concerning the control, taking and disposition of certain
birds and amending R. S. 23:4-25 and R. S. 23:4-50.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. R. S. 23:4-25 is amended to read as follows:

2 23:4-25. The owner, lessee or custodian of a dog found running
3 at large in the woods or fields, shall be liable to a penalty of \$20.00
4 for each offense; provided, however, that the occupant of a farm
5 may permit his dog to run at large on the land he occupies, except
6 during the open season for deer.

7 The owner, lessee or custodian of a dog may go into the woods
8 or fields with the dog without firearms for the purpose of exercising
9 or training it in daylight at any time, except during the open season
10 for deer, provided that on State public shooting and fishing grounds
11 or wildlife management areas such exercising or training may be
12 restricted to designated areas, and raccoon dogs may be trained
13 between the hours of sunset and sunrise for a period of 4 weeks
14 prior to the last week preceding the opening of the raccoon season
15 unless prescribed otherwise by the Fish and Game Code. The
16 penalty for violation of this section shall be \$20.00 for each offense.

17 Any person going into the woods or fields with a firearm, except
18 during the open seasons for the taking of birds and animals as
19 prescribed by law or by the Fish and Game Code, shall be liable
20 to a penalty of \$20.00 for each offense; provided, however, that
21 this section shall not apply to the killing of crows, *yellow-headed*
22 *redwinged, bi-colored redwinged, tri-colored redwinged, Rusty and*
23 *Brewer's blackbirds, cowbirds, grackles, [hawks,] wood chuck and*
24 *vermin other than birds*, which may be taken in any manner and
25 at any time of the year, when in the act of destroying poultry,
26 crops or property.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

1 2. R. S. 23:4-50 is amended to read as follows:

2 23:4-50. *Except as may be otherwise provided by any* **[Any]**
 3 *provision of law, regulation, or of the State Fish and Game Code*
 4 **[to the contrary notwithstanding]**, no person shall, within this
 5 *State, at any time, by any means or in any manner pursue, hunt,*
 6 *take, capture, kill* **[or catch]**, *attempt to take, capture, or kill, or*
 7 *have in* **[his]** *possession, living or dead, a wild bird other than a*
 8 *game bird as defined in section 23:4-49 of this Title,* **[or purchase,]**
 9 *offer* **[or expose]** *for sale, sell, offer to barter, barter, offer to*
 10 *purchase, purchase, deliver for shipment, ship, export, import,*
 11 *cause to be transported, carry or cause to be carried, or received*
 12 *for shipment, transportation, carriage, or export, any such wild*
 13 *bird after it has been killed or* **[caught]** *captured. Unless so other-*
 14 *wise provided, no* **[No]** *part of plumage, skin or body of a bird*
 15 *other than a game bird as defined in section 23:4-49 of this Title*
 16 **[protected by this section]** *shall be sold or had in possession for*
 17 *sale. Plumage, as used in this section, includes any part of the*
 18 *feathers, head, wings, or tail of a bird, and* **[when the word occurs**
 19 *in this section reference is had]* *refers equally to plumage of birds*
 20 *coming from without the State as to birds obtained within the State,*
 21 *but it shall not be construed to apply to the feathers of ostriches,*
 22 *domestic fowl or domestic pigeons. The fact that a bird belongs to*
 23 *a different species from that native in this State shall constitute no*
 24 *defense to the possession of parts thereof* **[if it belongs to the same**
 25 *family as any bird protected by this section].*

26 The English or European house sparrow **[(passer domesticus),]**
 27 *and the European starling*, **[blackbird, crow, grackle and cowbird]**
 28 *are not included among the birds protected by this section.* **[, pro-**
 29 *vided however, that nothing* **[Nothing herein** **[contained]** *shall*
 30 **[be deemed to]** *make it unlawful for the owner or occupant of*
 31 *land,* **[or his]** *the regular employees thereof, or an agent designated*
 32 *by the division to* **[kill]** *control hawks or owls only when in the act*
 33 *of destroying poultry or livestock* **[or when found in the immediate**
 34 *vicinity of a poultry or livestock range of said landowner or*
 35 *occupant]*, *provided that such control activities are conducted in*
 36 *compliance with all relevant State and Federal laws and regula-*
 37 *tions and that such owner, occupant, employee or agent has first*
 38 *obtained all permits required thereby.*

39 *Except as may be otherwise provided by any provision of law,*
 40 *regulation, or of the State Fish and Game Code, no State permit*
 41 *shall be required to control yellow-headed, red-winged, bi-colored*
 42 *redwinged, tri-colored redwinged, Rusty and Brewer's blackbirds,*
 43 *cowbirds, grackles and crows when found committing or about to*

44 *commit depredations upon ornamental or shade trees, crops, live-*
45 *stock, or wildlife, or when concentrated in such manners or manner*
46 *as to constitute a health hazard or other nuisance; provided, that*
47 *none of the birds killed pursuant to this section, nor their plumage,*
48 *shall be sold or offered for sale, but may be possessed, transported*
49 *and otherwise disposed of or utilized.*

50 Nothing herein contained shall prohibit the control of animals or
51 birds which have become obnoxious in nature and habit or that are
52 doing damage to wildlife or agricultural crops, by the Division of
53 Fish, **[and]** Game and Shellfisheries or its employees on any lands
54 in the State**;** provided, however, that nothing herein contained
55 shall be deemed to make lawful any act with respect to all grackles,
56 yellow-headed red-wing, bi-colored red-wing, tri-colored red-wing
57 and Brewer's blackbirds, which is made unlawful by the laws of
58 the United States or any regulation issued pursuant thereto**].**

59 A person violating *any of the provisions of this section* shall be
60 subject to a **[fine]** *penalty of not less than **[\$20.00]** \$50.00 nor more*
61 *than \$200.00 for each bird or part thereof **[killed, caught or had in***
62 *possession]* *which is the subject of such violation.*

1 3. This act shall take effect immediately.

STATEMENT

These proposed amendments to R. S. 23:4-25 and R. S. 23:4-50 would provide added protection to hawks and owls by deleting them from the list of birds previously exempt from protection. Such a change in legislation would bring New Jersey's laws into conformity with the Federal Migratory Bird Treaty Act which absolutely protects hawks and owls. Control of hawks and owls causing damage would be coordinated by the Division of Fish, Game and Shellfisheries wildlife control section. The penalty for persons killing or taking protected wildlife would be increased from \$20.00 for each offense to not less than \$50.00 nor more than \$200.00.

44 *commit depredations upon ornamental or shade trees, crops, live-*
 45 *stock, or wildlife, or when concentrated in such manners or manner*
 46 *as to constitute a health hazard or other nuisance; provided, that*
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A1665 (1979)

FROM THE OFFICE OF THE GOVERNOR

SEPTEMBER 28, 1979

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

KATHRYN FORSYTH

Acting Governor Christopher J. Jackman today signed the following bills in a ceremony in the Governor's Office:

A-485, sponsored by Assemblyman John Froude (D-Middlesex), which permits print-outs of motor vehicle records to be used as prima facie evidence in court proceedings.

The purpose of the legislation is to facilitate problems of proof in motor vehicle cases.

Requests to the Division of Motor Vehicles from courts and police for certified copies of suspension orders and suspension mailing lists & supplemental certified print-outs of driving records are increasing. Preparation of the certified copies is a time-consuming, manual job, necessitating the pulling of file folders and mailing lists and reviewing them to obtain the required documents. At the present time, there is a large backlog of requests.

By allowing the use of print-outs rather than certified copies as prima facie evidence, this backlog will be reduced and the process simplified.

A-779, sponsored by Assemblyman James Bornheimer (D-Middlesex), which validates the sale of municipal lands not needed for public use where the advertisement of the sale limited bidders to non-profit organizations.

A-1665, sponsored by Assemblywoman Rosemarie Totaro (D-Morris), which gives added protection to hawks and owls by deleting them from the list of birds previously exempt from protection under state law.

Under prior law, these birds could be killed when found in the act of destroying poultry or livestock, and this provision conflicted with the Federal Migratory Bird Treaty Act which protects these birds from unnecessary destruction.

Killing the birds is not absolutely prohibited under the bill, and the

Division of Fish, Game and Shellfisheries is authorized to determine whether hawks and owls could be controlled in other ways besides killing and take any action to that effect it deems necessary, including the issuance of special permits for the control of the birds.

The bill also provides for the control of certain specified birds without permits when the birds are found committing depredations upon trees, crops or livestock or when they are concentrated in such a manner as to cause a health hazard or other nuisance.

The bill also increases the penalties for persons killing or taking protected wildlife from \$20 for the offense to not less than \$50 nor more than \$200.

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