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Indicates New Matter

RECALLED

May 13, 2009

**H. 3794**

Introduced by Rep. Umphlett

S. Printed 5/13/09--S.

Read the first time May 12, 2009.

**A** **BILL**

TO AMEND SECTION 50‑11‑2200, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ESTABLISHMENT OF WILDLIFE MANAGEMENT AREAS, SO AS TO SPECIFY ADDITIONAL PROHIBITED ACTIVITIES; TO AMEND SECTION 50‑11‑2210, RELATING TO ABUSE OF WILDLIFE MANAGEMENT AREA LANDS, SO AS TO INCLUDE HERITAGE TRUST AND DEPARTMENT OWNED LANDS; TO AMEND SECTION 50‑11‑2220, AS AMENDED, RELATING TO ADDITIONAL PENALTIES FOR ABUSING WILDLIFE MANAGEMENT AREA LANDS, SO AS TO INCLUDE HERITAGE TRUST AND DEPARTMENT OWNED LANDS; AND BY ADDING SECTION 50‑11‑2225 SO AS TO CREATE A MISDEMEANOR CRIMINAL OFFENSE FOR ENTERING OR REMAINING ON A CLOSED AREA CONTRARY TO THE INSTRUCTIONS OF A LAW ENFORCEMENT OFFICER, MANAGER, OR DEPARTMENT CUSTODIAL PERSONNEL.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 50‑11‑2200 of the 1976 Code, as last amended by Act 84 of 2007, is further amended to read:

“Section 50‑11‑2200. (A) Subject to available funding, the department shall acquire sufficient wildlife habitat through lease or purchase or otherwise to establish wildlife management areas for the protection, propagation, and promotion of ~~fish and wildlife and for public hunting and fishing~~natural resource dependent recreational use. The department may not have under lease at any one time more than one million six hundred thousand acres in the wildlife management area program. The department may not pay more than fair market value for the lease of lands in the area. The department may not lease land for the program which, during the preceding twenty‑four months, was held under a private hunting lease. However, this restriction does not apply:

(1) if the former lessee executes a voluntary consent to the proposed wildlife management area lease;

(2) if the lessor cancels the lease; or

(3) to any lands which, during the twenty‑four months before June 5, 1986, were in the game management area program. ~~The department may promulgate regulations for hunting and taking wildlife on all wildlife management areas.~~

(B) The department may promulgate regulations for the protection, preservation, operation, maintenance, and use of wildlife management areas and Heritage Trust areas and those other lands owned by the department.

(C) The following acts or conduct are prohibited and shall be unlawful on all wildlife management areas, heritage preserves, and all other lands owned by the department; provided, however, the department may promulgate regulations allowing any of the acts or conduct by prescribing acceptable times, locations, means, and other appropriate restrictions not inconsistent with the protection, preservation, operation, maintenance, and use of such lands:

(1) hunting or taking wildlife or fish~~during closed season~~;

(2) exceeding bag or creel limits;

(3) hunting or taking wildlife or fish by unauthorized methods, weapons, or ammunition;

(4) hunting or taking wildlife or fish during closed seasons, days, or times;

(5) hunting or taking wildlife by aid of bait or feeding or baiting wildlife;

(6) hiking;

~~(5)~~(7) rock climbing or rappelling;

~~(6)~~(8) operation of motorized and nonmotorized vehicles;

~~(7)~~(9) swimming;

~~(8)~~(10) camping;

~~(9)~~(11) horse riding;

(12) staging or participating in ‘paintball’, ‘airsoft’, or similar games;

~~(10)~~ ~~operation of boats;~~

~~(11)~~(13) possession of pets and specialty animals;

~~(12)~~ ~~gathering plants;~~

~~(13)~~(14) use of fire, ~~except by the department for management purposes~~fireworks, or explosives;

~~(14)~~(15) polluting or contaminating any land or water;

~~(15)~~(16) acting in a disorderly manner or creating any noise which would result in annoyance to others~~;~~

~~(16)~~ ~~operating or using audio device, including radio, television, musical instruments, or any other noise producing devices, such as electrical generators, and equipment driven by motor engines, in such a manner and at such times as to disturb other persons~~ and no person shall operate or use ~~any~~a public address system;

(17) ~~possession~~consumption of alcoholic beverages or possession of open containers of alcoholic beverages on land designated for hunting~~.~~;

(18) conducting commercial activity or using the area for commercial gain, except by permit;

(19) gathering, damaging, or destroying plants, fallen vegetation, animals, fungi, rocks, minerals, fossils, artifacts, geological formations, or ecofacts, except by permit;

(20) entering a closed area or unauthorized entry;

(21) launching or landing parachutes or parasails or aircraft including models or remotely piloted aircraft and similar devices, except for law enforcement or emergencies;

(22) placing structures in the WMA, except permitted stands and blinds;

(23) obstructing or creating a hazard to land or water traffic or obstructing a watercourse;

(24) operating a motor vehicle in watercourses other than at fording sites;

(25) posting bills, signs, or other notices;

(26) indecently exposing one’s person or performing an indecent act in public;

(27) abandoning vehicles or other equipment;

(28) defacing, altering, destroying, or removing any sign, marker, guidepost, fence, gate, lock, barrier, improvement, building, bridge, culvert, structure, natural landmark, or feature;

(29) geocaching;

(30) use or possession of metal detectors, except by permit;

(31) digging or excavating, except by permit;

(32) use of herbicides or pesticides, excluding insect repellent;

(33) introducing non‑native or cultivated plants or other organisms, or releasing an animal;

(34) cutting or collecting of firewood, except by permit;

(35) target shooting, except in areas designated by the department;

(36) trapping; and

(37) shooting onto or across WMA areas closed to hunting or attempting to take wildlife on WMA areas closed to hunting.

(D) The department or emergency service personnel may undertake these activities for enforcement, emergencies, or management purposes.

(E) A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty‑five dollars nor more than two hundred dollars or be imprisoned for not more than thirty days, or both.

(F) As used in this section ‘bait’, ‘baiting’, or ‘feeding’ means placing, depositing, exposing, distributing, or scattering of shelled, shucked or unshucked corn, wheat, or other grain or food stuffs to constitute an attraction, lure, or enticement for wildlife to, on, or over an area. ‘Baited area’ means an area where bait or feed is directly or indirectly placed, deposited, exposed, distributed, or scattered, and the area remains a baited area for ten days following the complete removal of all bait or feed. Nothing in this section prohibits the hunting and taking of wildlife on or over lands or areas that are not otherwise baited and where:

(1) there are standing crops on the field where grown, including crops grown for wildlife management purposes; or

(2) shelled, shucked, or unshucked corn, wheat, or other grain, or seeds that have been distributed or scattered solely as the result of a normal agricultural practice as prescribed by the Clemson University Extension Service or its successor.

(G) An activity permitted by regulation may be temporarily suspended for up to one hundred eighty days if the activity is adversely affecting natural resources or human health or safety.

~~(E)~~(H) Nothing contained in this section shall interfere ~~in any manner~~with the use and management of lands by a state agency in charge of these lands in the functions of the agency as authorized by law.”

SECTION 2. Section 50‑11‑2210 of the 1976 Code is amended to read:

“Section 50‑11‑2210. The abuse, misuse, damage, or destruction of wildlife management area land, Heritage Trust land, or department owned land or improvements on ~~wildlife management area land~~these lands is unlawful. A person who abuses, misuses, damages, or destroys ~~wildlife management area land~~these lands or improvements on them including, but not limited to, roads, vegetation, buildings, structures, or fences or leaves refuse, trash, or other debris on the property~~or sets, makes, or builds a fire except in an area specially designated by the landowner, operates a motor conveyance in an area or on a road closed to operation, conducts target practice except in a designated target practice area, camps in an area not designated as a campsite, disregards a safety or restrictive posting by the landowner~~, or who otherwise abuses, damages, destroys, or misuses ~~a wildlife management area land~~these lands is guilty of a misdemeanor and, upon conviction, must be fined two hundred dollars and be required to make restitution to the landowner in an amount determined by the court to be necessary to repair, rebuild, clean up, or restore the property to its condition before the abuse occurred. A person failing to make restitution within the time limit set by the court must serve a mandatory ten‑day sentence in the county jail which may not be suspended in whole or in part. The provisions of this section are in addition to other criminal penalties.”

SECTION 3. Section 50‑11‑2220 of the 1976 Code, as last amended by Act 84 of 2007, is further amended to read:

“Section 50‑11‑2220. A person convicted ~~twice within a three‑year period~~of abusing, damaging, or destroying wildlife management area land, Heritage Trust land, or department owned land or improvements ~~shall lose~~loses the privilege of entering onto ~~wildlife management areas~~these lands for one year. A person who enters ~~a wildlife management area~~onto wildlife management land, Heritage Trust land, or department owned land after losing the privilege to enter is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days, or both and, in addition, shall lose the privilege to enter ~~wildlife management areas~~these lands for an additional two years and the privilege to hunt and fish for one year. The provisions of this section are in addition to other criminal penalties.”

SECTION 4. Chapter 11, Title 50 of the 1976 Code is amended by adding:

“Section 50‑11‑2225. A person who enters a closed area or who remains on an area after being instructed by a law enforcement officer, the manager, or department custodial personnel to leave is guilty of a misdemeanor and, upon conviction, must be fined up to five hundred dollars or imprisoned up to thirty days, or both.”

SECTION 5. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 6. Article 10, Chapter 11, Title 50 of the 1976 Code is amended by adding:

“Section 50‑11‑2215. (A) Nothing contained in Section 50‑11‑2200 or 50‑11‑2210 shall interfere with the use and management of lands by a state agency charged with the management of those lands as part of the functions of the agency authorized by law or with the management and use by a landowner of his lands with the WMA program; nor shall anything contained in this Section 50‑11‑2200 or 50‑11‑2210 be deemed to alter in any way the rights of owners of easements and rights of way within the boundaries of those lands.

(B) Notwithstanding the provisions of Section 51-17-85, subsection (A) of this section, or another provision of this article, regarding the regulation of heritage preserves, the Department of Natural Resources is directed to cooperate with the Horry County Council for the purpose of construction and paving that portion of International Drive which borders the Lewis Ocean Bay Heritage Preserve of which the department holds title. The Horry County Council is authorized to proceed with construction and paving of that portion of International Drive as described in this subsection to the council’s specifications in order to facilitate the critical, compelling need for the prompt, efficient delivery of fire protection services to the citizens of Horry County. The Horry County Council has authority to oversee the construction and paving of the International Drive area in the best interests of the people of Horry County.”

SECTION 7. This act takes effect upon approval by the Governor.

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