

ENROLLED ACT NO. 91, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

AN ACT relating to game and fish; modifying game bird farm license provisions relating to release of game birds; providing a limitation on game and fish commission regulation of the release of game birds by licensees; providing for certification of game bird farms to allow breeding, propagation, handling, taking, rearing and release of greater sage grouse; authorizing gathering of greater sage grouse eggs by certified game bird farms as specified; specifying requirements for certification; requiring rulemaking; providing a time limitation on certification and for disposition of greater sage grouse held at the expiration or revocation of certification; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 23-5-111 is created to read:

23-5-111. Game bird farm-certification to raise greater sage grouse; authorization; requirements; limitations.

(a) No person shall possess live greater sage grouse or propagate, breed, sell, raise or release greater sage grouse unless licensed as a game bird farm and certified to be in compliance with the requirements of this section.

(b) The commission shall promulgate rules and regulations for the administration of this section. The rules and regulations shall establish a system to certify game bird farm licensees to possess, propagate, breed, raise, sell, gather eggs of and release greater sage grouse and to take greater sage grouse within the boundaries of the game bird farm. A licensee shall be issued an annual

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certificate of compliance under this section by providing evidence to the department that:

(i) The licensee has successfully raised from eggs or chicks at least two (2) other species of game bird in accordance with this act for not less than three (3) consecutive years;

(ii) An adequate enclosure exists at the game bird farm to confine and handle greater sage grouse physically separated from other game birds;

(iii) The enclosures for greater sage grouse include vegetation consistent with the needs of the grouse;

(iv) The facility is disease free; and

(v) The licensee demonstrates the capacity to meet requirements specified in this section and commission rule for continuing operation as a certified greater sage grouse facility.

(c) To maintain certification under this section the licensee shall:

(i) Submit an annual national poultry improvement plan certificate and annual avian influenza free certification by a licensed Wyoming veterinarian to the department;

(ii) Report within the time period established by rule the detection of any disease at the game bird farm to the department and undertake and report to the department remedial acts taken to mitigate the effects of any disease.

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(d) Before release, greater sage grouse shall be banded for identification in accordance with rules and regulations of the commission and held in a holding pen separate from any sage grouse not being released and separate from any other game bird species for at least thirty (30) consecutive days immediately prior to release. Any greater sage grouse that dies within the release holding pen during this period shall be reported to the department within the time period and in accordance with the procedures established by rule shall be sent to the Wyoming state veterinary laboratory for necropsy at the expense of the licensee. Any release of greater sage grouse within the state and not within the boundaries of the game bird farm shall be in coordination with the department. Commission rules may restrict areas of release as necessary to protect existing wild populations of greater sage grouse.

(e) A game bird farm licensee holding a current certification under this section may collect greater sage grouse eggs for the purpose of establishing a captive breeding population, subject to the following restrictions:

(i) All collections shall be conducted by the licensee or his agent under the supervision of a professional wildlife biologist and in coordination with the department;

(ii) No more than two hundred fifty (250) eggs may be collected by any game bird farm licensee in any calendar year;

(iii) No more than forty (40) nest sites in a single collection area may be disturbed by the game bird farm licensee in any calendar year; and

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(iv) Eggs may only be collected in April and May;

(v) Rules shall establish:

(A) Time of day and restrictions on methods of collection of eggs;

(B) The number of licensees authorized to collect eggs;

(C) The areas approved for collection of eggs; and

(D) Other limitations on egg collections, including the complete suspension of egg collections as determined by the commission to be beneficial to prevent the listing of or facilitate the removal of greater sage grouse as a candidate species under the Endangered Species Act.

(f) The department may suspend, revoke or not renew any certification issued to a licensee under this section if, after notice and opportunity for a hearing, the department finds:

(i) The licensee has violated any provision of this act or any rule promulgated under this act which relates to the licensee's game bird farm operations;

(ii) The licensee's facilities no longer provide secure holding facilities to contain and separate game bird species as required under this section;

(iii) The licensee's facility has not remained disease free and the department reasonably believes the

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native greater sage grouse population of this state may be harmed thereby.

(g) The requirements of this section for game bird farm certification for greater sage grouse are in addition to all other licensing requirements of this article.

(h) A licensee whose certification under this section has been revoked may not reapply for a new certification within eighteen (18) months of the date of revocation.

(j) Commission rules may provide for the forfeiture to the state or for other disposition of greater sage grouse at any facility whose certification under this section has been revoked. Certifications under this section shall expire as of December 31, 2022. Commission rules shall provide for disposition of all greater sage grouse held by a licensee pursuant to this section as of that date. No licensee shall be entitled to any reimbursement from or other claim against the state for any greater sage grouse owned by the licensee at the expiration or revocation of a certification and all certifications issued pursuant to this section shall so provide.

Section 2. W.S. 23-3-108(a), 23-3-116, 23-5-102, 23-5-104(c) and 23-5-106 are amended to read:

23-3-108. Destruction of bird nests or eggs.

(a) No person shall take or intentionally destroy the nest or eggs of any nonpredacious bird, except as authorized under W.S. 23-5-111. The nest or eggs of any predacious bird may be taken or destroyed.

23-3-116. Ownership of game bird; taking of privately owned game birds.

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Any person who wishes to acquire game birds from any private source shall apply for and receive a permit from the department prior to acquiring, possessing or transporting the game birds. Upon receipt of the game birds, the permittee shall notify the department to establish proof of ownership and to allow the game birds to be marked with a leg or wing band. Whenever game birds are purchased outside the state, the permittee shall furnish adequate evidence that the game birds are disease free. Upon compliance with this section, the permittee is entitled to take his privately owned game birds without a game bird or turkey license. Live greater sage grouse or the eggs thereof shall only be acquired, possessed, bred, propagated, raised, sold, transported, taken and released by a game bird farm licensee holding a current certification under W.S. 23-5-111.

23-5-102. Department to issue licenses.

The department shall issue licenses for game bird farms, and for the propagation, breeding, possession, use, releasing, killing, hunting, and sale of licensed birds therefrom. No license shall authorize any of the acts specified in this section for greater sage grouse unless the licensee has been certified under W.S. 23-5-111.

23-5-104. Investigation of applicant; issuance of license; purchase or replacement of birds; marking of birds.

(c) When a license has been granted, the licensee becomes the owner of all offspring of the game birds actually produced and remaining thereon. No person shall entice game birds into the licensed premises by baiting, artificial feeding or by any other means. All adult game

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birds released on the licensed premises shall be marked by identifying leg or wing bands. After three (3) years of continuous operation and licensure for the same location, the licensee shall not be required to mark adult game birds with identifying leg or wing bands. To be qualified as a licensee under this act, each licensee shall release a minimum of one hundred (100) game birds each year on the licensed premises, which number may be a combination of any species of game birds. Failure to release the minimum number of birds is cause for revocation of the license. The commission shall not limit by rule and regulation or policy the number or species of game birds a licensee may raise, possess, confine, transport or dispose of in accordance with the provisions of this chapter.

23-5-106. Rights of licensee generally.

The game bird farm license is prima facie evidence in all courts and proceedings of the lawful right of the licensee therein named, his or its successor or assigns, for the term of license, to establish and operate a game bird farm upon the premises, and entitles the licensee therein named or his successors or assigns, to the exclusive right for and during the term to breed, propagate, hunt, kill, and sell the licensed game birds thereon. For game bird species other than greater sage grouse, the licensee shall not shoot or kill over ninety-six percent (96%) of the birds reared or released on his premises. No licensee shall undertake any of the acts specified in this section for greater sage grouse unless the licensee holds a current certification under W.S. 23-5-111, and the acts are taken in accordance with W.S. 23-5-111 and rules adopted pursuant thereto.

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Section 3. Rules required by this act shall be adopted as final rules by the game and fish commission not later than September 1, 2017.

Section 4. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk