

FILED JAN 30 2006

NAT. RES. & ENVIRONMENT

SENATE FILE 2107

BY TINSMAN, MULDER, PUTNEY,
SEYMOUR, KETTERING, BOETTGER,
and ANGELO

(COMPANION TO LSB 5478HH
BY LYKAM)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act allowing private landowners limited immunity from premises
2 liability during urban deer control hunts.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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NAT. RES. & ENVIRONMENT

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1 Section 1. Section 461C.1, Code 2005, is amended to read
2 as follows:

3 461C.1 PURPOSE.

4 The purpose of this chapter is to encourage private owners
5 of land to make land and water areas available to the public
6 for recreational purposes and for urban deer control by
7 limiting their liability toward persons entering thereon for
8 such purposes.

9 Sec. 2. Section 461C.2, subsection 3, Code 2005, is
10 amended to read as follows:

11 3. "Land" means private land located in a municipality
12 including abandoned or inactive surface mines, caves, and land
13 used for agricultural purposes, including marshlands, timber,
14 grasslands and the privately owned roads, water, water
15 courses, private ways and buildings, structures and machinery
16 or equipment appurtenant thereto.

17 Sec. 3. Section 461C.2, Code 2005, is amended by adding
18 the following new subsections:

19 NEW SUBSECTION. 3A. "Municipality" means any city or
20 county in the state.

21 NEW SUBSECTION. 5. "Urban deer control" means deer
22 hunting with a bow and arrow on private land in a
23 municipality, without charge, as authorized by a municipal
24 ordinance, for the purpose of reducing or stabilizing an urban
25 deer population in the municipality.

26 Sec. 4. Section 461C.3, Code 2005, is amended to read as
27 follows:

28 461C.3 LIABILITY OF OWNER LIMITED.

29 Except as specifically recognized by or provided in section
30 461C.6, an owner of land owes no duty of care to keep the
31 premises safe for entry or use by others for recreational
32 purposes or urban deer control, or to give any warning of a
33 dangerous condition, use, structure, or activity on such
34 premises to persons entering for such purposes.

35 Sec. 5. Section 461C.4, unnumbered paragraph 1, Code 2005,

1 is amended to read as follows:

2 Except as specifically recognized by or provided in section
3 461C.6, a holder of land who either directly or indirectly
4 invites or permits without charge any person to use such
5 property for recreational purposes or urban deer control does
6 not thereby:

7 Sec. 6. Section 461C.5, Code 2005, is amended to read as
8 follows:

9 461C.5 DUTIES AND ABILITIES OF OWNER OF LEASED LAND.

10 Unless otherwise agreed in writing, the provisions of
11 sections 461C.3 and 461C.4 shall be deemed applicable to the
12 duties and liability of an owner of land leased, or any
13 interest or right therein transferred to, or the subject of
14 any agreement with, the United States or any agency thereof,
15 or the state or any agency or subdivision thereof, for
16 recreational purposes or urban deer control.

17 Sec. 7. Section 461C.6, subsection 2, Code 2005, is
18 amended to read as follows:

19 2. For injury suffered in any case where the owner of land
20 charges the person or persons who enter or go on the land for
21 the recreational use thereof or for deer hunting, except that
22 in the case of land or any interest or right therein, leased
23 or transferred to, or the subject of any agreement with, the
24 United States or any agency thereof or the state or any agency
25 thereof or subdivision thereof, any consideration received by
26 the holder for such lease, interest, right or agreement, shall
27 not be deemed a charge within the meaning of this section.

28 Sec. 8. Section 461C.7, subsection 2, Code 2005, is
29 amended to read as follows:

30 2. Relieve any person using the land of another for
31 recreational purposes or urban deer control from any
32 obligation which the person may have in the absence of this
33 chapter to exercise care in the use of such land and in the
34 person's activities thereon, or from the legal consequences of
35 failure to employ such care.

1 Sec. 9. NEW SECTION. 461C.8 URBAN DEER CONTROL --
2 MUNICIPAL ORDINANCE.

3 1. A municipality may adopt an ordinance authorizing
4 trained, volunteer hunters to hunt deer with a bow and arrow
5 on private land within the municipality, without charge, for
6 the purpose of urban deer control.

7 2. The ordinance shall specify all of the following:

8 a. How a person qualifies to participate in urban deer
9 control.

10 b. Where urban deer control can occur.

11 c. Conditions under which urban deer control can be
12 conducted, which are intended to minimize the risk of injury
13 to persons and property.

14 3. A hunter who participates in urban deer control
15 pursuant to this section shall be otherwise qualified to hunt
16 deer in this state, have a hunting license and pay the
17 wildlife habitat fee, and obtain a special deer hunting
18 license valid only for the dates, locations, and type of deer
19 specified on the license. Special deer hunting licenses
20 issued pursuant to this section shall be available only to
21 residents and shall cost the same as deer hunting licenses
22 issued during general deer seasons. The commission may
23 establish procedures for issuing more than one license per
24 person as necessary to achieve the purposes of urban deer
25 control, and the cost of each additional license shall be ten
26 dollars.

27 4. An urban deer control ordinance is not effective until
28 it has been approved by the department of natural resources.

29 5. The department of natural resources shall adopt rules
30 in accordance with chapter 17A necessary for the
31 administration of this section.

32

EXPLANATION

33 This bill provides limited immunity from premises liability
34 to private landowners who allow bow hunting of deer on their
35 property for the purpose of urban deer control, pursuant to a

1 municipal ordinance.

2 The bill defines "urban deer control" as deer hunting with
3 a bow and arrow on private land in a municipality, without
4 charge, as authorized by a municipal ordinance, for the
5 purpose of reducing or stabilizing an urban deer population in
6 the municipality.

7 The bill provides that such a landowner does not owe a duty
8 of care to keep the premises safe for entry or use by such
9 deer hunters, or to give warnings of dangerous conditions,
10 uses, structures, or activities on the premises to such deer
11 hunters. The bill also provides that the deer hunters do not
12 have the status of invitees or licensees.

13 The bill does not limit the landowner's liability for a
14 malicious failure to warn of danger or for injuries that occur
15 when the landowner charges the hunter to go on the land.

16 The bill does not create a duty of care or ground of
17 liability for injury to persons or property. The bill does
18 not relieve a deer hunter from any obligation to exercise care
19 in the use of the land and in the deer hunter's activities, or
20 from the legal consequences of the hunter's failure to employ
21 such care.

22 The bill allows a municipality, i.e., any city or county in
23 the state, to adopt an ordinance authorizing trained,
24 volunteer hunters to hunt deer with a bow and arrow within the
25 municipality, without charge, for the purpose of urban deer
26 control.

27 The municipal ordinance is required to specify how a person
28 qualifies to participate in urban deer control, where urban
29 deer control can occur, and the conditions under which urban
30 deer control can be conducted, which are intended to minimize
31 the risk of injury to persons and property.

32 A hunter who participates in urban deer control pursuant to
33 a municipal ordinance is required to be otherwise qualified to
34 hunt deer in this state, have a hunting license and pay the
35 wildlife habitat fee, and obtain a special deer hunting

1 license valid only for the dates, locations, and type of deer
2 specified on the license. Such special deer hunting licenses
3 are available only to residents and cost the same as deer
4 hunting licenses issued during general deer seasons, which is
5 \$25.50. The natural resource commission may establish
6 procedures for issuing more than one license per person as
7 necessary to achieve the purposes of urban deer control, and
8 the cost of each additional license is \$10.

9 An urban deer control ordinance is not effective until it
10 has been approved by the department of natural resources. The
11 department is also required to adopt rules in accordance with
12 Code chapter 17A necessary for the administration of the
13 ordinance provision.

14 Limited immunity from premises liability is currently
15 available to private landowners who allow public use of their
16 land without charge for recreational purposes such as hunting,
17 trapping, horseback riding, fishing, swimming, and similar
18 activities.

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**EIGHTY FIRST GENERAL ASSEMBLY
2006 REGULAR SESSION
DAILY
SENATE CLIP SHEET**

MARCH 29, 2006

SENATE FILE 2107

S-5127

1 Amend Senate File 2107 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. NEW SECTION. 481A.40 URBAN DEER
5 CONTROL.

6 1. As used in this section, unless the context
7 clearly requires a different meaning:

8 a. "Municipality" means a city or county in this
9 state.

10 b. "Urban deer control" means deer hunting with a
11 bow and arrow on public or private land in a
12 municipality, without charge, as authorized by a
13 municipal ordinance, for the purpose of reducing or
14 stabilizing an urban deer population in the
15 municipality.

16 2. An owner of public or private land shall not be
17 liable for loss arising from personal injury or
18 property damage occurring as a consequence of allowing
19 urban deer control on the owner's property.

20 3. A municipal ordinance which authorizes urban
21 deer control shall allow participation in urban deer
22 control only by trained volunteer bow hunters and
23 shall include conditions intended to minimize the risk
24 of injury to people and property. An urban deer
25 control ordinance is not effective until the ordinance
26 has been approved by the department of natural
27 resources.

28 4. A hunter who participates in urban deer control
29 pursuant to this section shall be otherwise qualified
30 to hunt deer in this state, have a hunting license and
31 pay the wildlife habitat fee, and obtain a special
32 urban deer control hunting license valid only for the
33 dates, locations, and type of deer specified on the
34 license. Special deer hunting licenses issued
35 pursuant to this section shall be available only to
36 residents and shall cost the same as deer hunting
37 licenses issued during general deer seasons. The
38 commission may establish procedures for issuing more
39 than one license per person as necessary to achieve
40 the purposes of urban deer control, and the cost of
41 each additional license shall be ten dollars.

42 5. The commission shall adopt rules in accordance
43 with chapter 17A necessary for the administration of
44 this section."

45 2. Title page, by striking lines 1 and 2 and
46 inserting the following: "An Act relating to public
47 and private landowners' immunity from premises
48 liability during urban deer control hunts authorized
49 by municipal ordinances."

By DAVID MILLER

S-5127 FILED MARCH 28, 2006