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K. L. COOL, Director

April 16, 2001

RESUBMITTED: May 14, 2001

Memorandum to the Natural Resources Commission:

SUBJECT: Crossbow Hunting Regulations

Authority:

The Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, authorizes the Director and the Commission to issue orders to manage wild animals in this state.

Discussion and Background

In 2000, 1994 PA 451 was amended to allow the Natural Resources Commission to issue an order regulating the use of crossbows for hunting in Michigan. The amendment provided that Section 40115, which contains the current statutory crossbow permit provisions, would be repealed upon issuance of this order and thereby provide an orderly transition of authority to the Natural Resources Commission.

This order is intended to establish regulations for the use of crossbows for hunting and thereby repeal the current statutory provisions. This order reestablishes the current permitting process, current crossbow privileges and responsibilities and makes no substantive change to any existing statutory provisions for the use of crossbows for hunting except to allow any properly licensed hunter the opportunity to use a crossbow during the November 15 to November 30 firearm deer hunting season and the September youth firearm deer hunting days.

As provided by legislative amendment, upon July 1, 2001, the effective date of this order, Section 40115 of the Natural Resources and Environmental Protection Act, Act No. 451 of the Public Acts of 1994, being Section 324.40115 of the Michigan Compiled Laws, will be repealed and the authority to regulate the use of crossbows for hunting will reside with the Natural Resources Commission.

Recommendation:

This order was submitted for information only at the May 2001 meeting of the Natural Resources Commission. This item appeared in the May 28, 2001, Calendar and is eligible for approval on June 8, 2001. We are now recommending that it be acted upon at this meeting.

Rebecca A. Humphries, Chief
Wildlife Division

Richard C. Asher, Chief
Law Enforcement Division

George E. Burgoyne, Jr.
Resource Management Deputy

I have analyzed and discussed these recommendations with staff and concur as to matters over which the Natural Resources Commission has authority.

K. L. Cool
Director

WILDLIFE CONSERVATION ORDER

Amendment No. 10 of 2001

Under the authority of sections 40107 and 40113a, Act No. 451 of the Public Acts of 1994, as amended, being sections 324.40107 and 324.40113a of the Michigan Compiled Laws, the Natural Resources Commission and the Director of the Department of Natural Resources ordered that effective July 1, 2001, the following sections of the Wildlife Conservation Order shall read as follows:

1.2 Meanings of words and phrases.

Sec. 1.2. For the purpose of this order, the words and phrases defined in part 401, wildlife conservation, Act No. 451 of the Public Acts of 1994, as amended, being sections 323.40101 to 323.40119 of the Michigan Compiled Laws, and part 435, hunting and fishing licenses, Act No. 451 of the Public Acts of 1994, as amended, being sections 324.43501 to 324.43561 of the Michigan Compiled Laws, and in sections 1.2a to 1.12c of this order shall have the meanings ascribed to them in those sections.

1.12a Crossbow defined.

Sec. 1.12a. "Crossbow" means a weapon consisting of a bow mounted transversely on a stock or frame and designed to fire an arrow, bolt, or quarrel by the release of a bow string which is controlled by a mechanical or electric trigger and has a working safety and a draw weight of 100 pounds or greater.

1.12b Physical therapist defined.

Sec. 1.12b. "Physical therapist" means a person licensed to engage in the practice of physical therapy under article 15 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.16101 to 333.18838 of the Michigan Compiled Laws.

1.12c Physician defined.

Sec 1.12c "Physician" means a person licensed by the state to engage in the practice of medicine or the practice of osteopathic medicine and surgery under article 15 of the public health code, Act No. 368 of the Public Acts of 1978.

2.1 Taking of animals; prohibited methods, devices, and weapons; exceptions.

Sec. 2.1. Unless otherwise specified in this order, a person shall not do any of the following:

(1) Make use of a pit, pitfall, deadfall, scaffold, raised platform, tree, cage, snare, trap, net, baited hook, or similar device, or a drug, poison, anti-coagulant, smoke, gas, explosive, weasel, ferret, fitchew, crossbow, arbalest, spear, or mechanical device, for the purpose of taking an animal or driving an animal out of their hole or home. For the purpose of this order, a mechanical device shall not be construed to mean a firearm, slingshot, or bow and arrow. When used in this order, "raised platform" means a horizontal surface constructed or manufactured by a person that increases the field of vision of a person using the horizontal surface beyond the field of vision that would normally be attained by that person standing on the ground.

(2) Use in taking an animal, or have in the person's possession in an area frequented by animals, a semiautomatic shotgun or rifle other than .22 caliber rimfire, capable of holding more than 6 shells at 1 time in the magazine and barrel combined, or use a cartridge containing a tracer bullet, or a cartridge containing an explosive bullet, or a firearm capable of firing more than 1 shot with a single pull or activation of the trigger.

(3) During the 5 days immediately preceding November 15, transport or possess in an area frequented by deer a rifle or shotgun with buckshot, slug load, ball load, or cut shell. A person may transport a rifle or shotgun to or from a hunting camp if the rifle or shotgun is unloaded and securely encased or carried in the trunk of a vehicle. This section shall not prohibit a resident who holds a fur harvester's license from carrying a .22 caliber rimfire firearm while hunting or checking a trap line during the open season for hunting or trapping fur-bearing animals.

(4) Use in hunting, or possess afield in an area inhabited by wild birds and animals within the "shotgun, handgun, black-powder firearms only area" from November 15 to November 30, or use to take a deer during any firearm deer season in the "shotgun, handgun, black-powder firearms only area," a firearm other than:

(a) A shotgun with a smooth or rifled barrel.

(b) A .35 caliber or larger pistol capable of holding no more than 9 shells at 1 time in the barrel and magazine combined and loaded with straight-walled cartridges.

(c) A muzzle-loading rifle or black-powder pistol loaded with .44 caliber or larger projectile propelled by black-powder or a commercially manufactured black-powder substitute.

(5) Injure, destroy, or rob the eggs of birds protected by the laws of this state or this order, or molest, harass, or annoy those birds upon their nests.

(6) Possess or use an apparatus known as a silencer on a gun while hunting in this state.

(7) Make use of a sink box or battery as these devices are defined by the United States fish and wildlife service.

(8) Set afire or assist in setting afire a marshland or other lands for the purpose of driving out wild birds or wild animals, or take or attempt to take a wild bird or wild animal so driven out of a marshland or other land.

(9) Take any animal at any time other than during the hunting hours and open seasons established in this order except as may otherwise be provided in chapter 6.

(10) Take in 1 day more than the daily limit, or possess at 1 time more than the possession limit, or possess on the first day of the open season more than the daily limit, or possess more than the season limit of any animal.

(11) Destroy, disturb, or molest at any time any bear, beaver, muskrat, raccoon, squirrel, mink, badger, or rabbit house, hole, burrow, nest, dam, or den which may be used by such animals.

(12) Make use of a dog in hunting deer except that a dog may be used to locate a down and mortally wounded deer if the dog is kept on a leash and none of the persons in attendance possess a firearm or bow and arrow. If the tracking is done at night, artificial lights ordinarily carried in the hand may be used. A dog that barks while tracking the deer shall not be used on public lands.

(13) Affix any device to a bow, which aids in the cocking or holding of a bow string in a drawn position. This subsection shall not prohibit the use of a hand held device to release the bow string. This subsection shall not apply to a permanently disabled person who holds a special permit provided for in part 401, wildlife conservation, of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.40101 to 324.40119 of the Michigan Compiled Laws, or this order.

(14) Use aircraft to aid in the taking of a wild bird or wild animal.

(15) Take game with a crossbow, except deer during the November 15 to November 30 firearm deer season by hunters age 14 or older, unless they have been issued a crossbow permit pursuant to section 5.95.

5.95 Permit to take game with a crossbow.

Sec. 5.95. (1) The department may issue a permit to a person who is certified as being permanently disabled by a physician as provided in this section. That permit shall be issued without cost to the applicant and shall authorize that person to take game with a crossbow during the open season for that game if that person holds a license to take that game issued pursuant to part 435 and complies with all other laws and rules for the taking of game.

(2) An applicant for a permit under this section shall submit to the department a signed certification from a physician indicating that the physician received from a physical therapist and reviewed and confirmed objective test findings indicating the percentage of disability determined to be present in the permit applicant by the physical therapist. Based on the test findings, the physician may certify that the applicant is permanently disabled as required by this section if the physician finds that the permit applicant has at least 80%, in combination or individual impairment, of a hand, elbow, or shoulder. In support of such a determination, the physician and the physical therapist shall utilize the following standards and criteria:

(a) If applicable, muscle weaknesses with a grade of fair or below for involved upper extremity muscle groups will be used to determine if a person is eligible for a permit under this section. Testing by the physical therapist will use as a guideline "Techniques of Manual Muscle Testing", by Daniels and Worthingham, or other guidelines accepted by the American medical association.

(b) Impaired range of motion. Goniometric measurements using the "American medical association guide to evaluation and permanent impairment rating", or other guidelines accepted by the American medical association.

(c) Peripheral nerve involvement, using the "American medical association guide to evaluation and permanent impairment rating", or other guidelines accepted by the American medical association.

(d) Amputations involving 4 fingers at the proximal interphalangeal joint, wrist, elbow, and shoulder do not require objective test findings. However, the applicant is required to present a physician's diagnosis to be qualified for a permit.

(e) Unilateral hand weakness disabilities. In addition to manual muscle testing, a grip dynamometer, pinch grip, and lateral grip measurements will be used to compare dominant to nondominant hand. A 5% deficit is standard acceptance for the nondominant hand. Bilateral hand weaknesses or bilateral upper extremity weaknesses, or both, are subject to manual muscle testing only.

(f) Any spinal cord injury above the level of C-8, resulting in permanent disability to the lower extremities, leaving the applicant permanently nonambulatory, as diagnosed by a physician, do not require objective test findings. However, the applicant is required to present a physician's diagnosis to be qualified for a permit.

(g) Coordination assessment. Coordination is the ability to execute smooth, accurate, controlled movement. Incoordination or coordination deficit describes abnormal motor function characterized by awkward, extraneous, uneven, or inaccurate movements, caused by central nervous disorders, including, but not limited to, Parkinson's disease, cerebral palsy, hemiplegia, hemiparesis, and closed head trauma; or by progressive neuromuscular diseases, such as muscular dystrophy, multiple sclerosis, and amyotrophic lateral sclerosis. Purpose: to assess the ability of muscles or groups of muscles to work together to perform a task. For safety considerations, this test will eliminate severely impaired applicants from qualifying for a permit.

(3) A person shall not seek diagnosis from a physical therapist or a physician for purposes of meeting the requirements of this section on more than 2 occasions within a 6-month period. If a person seeks a diagnosis from a physical therapist and the results of the testing do not meet the requirements of this section for eligibility for a permit, the person may do either of the following:

(a) Within 30 days of obtaining the test results, seek another opinion from the same or a different physical therapist.

(b) After 180 days or more, seek another opinion from the same or a different physical therapist.

(4) A permit issued under this section to a person who is eligible for that permit because he or she has a progressive neuromuscular disease or a central nervous disorder shall be issued for 2 years and then is renewable only upon reapplication pursuant to this section. All other crossbow permits issued pursuant to this section are valid unless revoked pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(5) Arrows, bolts, and quarrels used for taking deer, bear, elk, and turkey with a crossbow under a permit issued under this section or as provided in section 2.1 are required to have a broadhead hunting type of point not less than 7/8 of an inch wide and must be a minimum of 14 inches in length.

Issued this 8th day of June, 2001.

Approved as to matters over which the Natural Resources Commission has authority.

Keith J. Charters, Chairman
Natural Resources Commission

Approved as to matters over which the Director has authority.

K. L. Cool
Director