

EXEMPT

S.B. 411

SENATE BILL NO. 411—COMMITTEE ON FINANCE

(ON BEHALF OF THE DEPARTMENT OF ADMINISTRATION)

APRIL 15, 2009

Referred to Committee on Finance

SUMMARY—Revises provisions governing the issuance of hunting, fishing and trapping licenses. (BDR 45-1177)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to wildlife; providing for the permanent revocation of a license, permit or privilege to hunt, fish or trap in certain circumstances; requiring a person to maintain a principal and permanent residence in this State to be eligible for a resident license, tag or permit to hunt, fish or trap; providing for the forfeiture of a bonus point or other increased opportunity to be awarded a tag for making a false statement or furnishing false information in certain circumstances; requiring a person seeking to obtain a license, tag or permit on behalf of another for a fee or other compensation to have a power of attorney to do so; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides that a license, permit or privilege of a person to hunt, fish
2 or trap may be suspended or revoked for wildlife convictions, but not for more than
3 3 years except in certain circumstances. The license, permit or privilege of a person
4 who is convicted pursuant to NRS 501.376 of: (1) a gross misdemeanor may not be
5 suspended or revoked for more than 5 years; and (2) a felony may not be suspended
6 or revoked for more than 10 years. (NRS 501.1816) **Section 2** of this bill expands
7 the suspension and revocation penalties to require that the license, permit or
8 privilege of a person who has been convicted of two or more felonies pursuant to
9 NRS 501.376 be permanently revoked.



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10 Existing law requires that a person meet certain requirements before he can be
11 issued a resident license, tag or permit pursuant to chapter 502 of NRS. (NRS
12 502.015) **Section 3** of this bill clarifies the language regarding domicile to mean
13 maintaining a principal and permanent residence in this State beyond just owning a
14 home in Nevada.

15 Existing law prohibits giving a false statement or furnishing false information
16 to obtain any license, tag or permit, making such an action a misdemeanor, or to
17 obtain a big game tag, making such an action a gross misdemeanor. (NRS 502.060)
18 **Section 4** of this bill adds a provision that any person who is convicted of giving a
19 false statement or furnishing false information to obtain a license, tag, permit or big
20 game tag forfeits any bonus point or other increased opportunity to be awarded a
21 tag in a subsequent drawing.

22 Existing law requires a person attempting to obtain a license, tag or permit on
23 behalf of another person to have a power of attorney giving him the authority to do
24 so. (NRS 502.061) **Section 5** of this bill restricts the requirement to have a power of
25 attorney to only those persons attempting to acquire a license, tag or permit on
26 behalf of another for a fee or other compensation.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 501.1814 is hereby amended to read as
2 follows:

3 501.1814 1. The Commission shall establish and the
4 Department shall administer and enforce a system of assessing
5 demerit points for wildlife convictions. The system must be uniform
6 in its operation.

7 2. Pursuant to the schedule of demerit points established by
8 regulation of the Commission for each wildlife conviction occurring
9 within this State affecting any holder of a license, permit or
10 privilege issued pursuant to this title, the Department shall assess
11 demerit points for the 60-month period preceding a person's most
12 recent wildlife conviction. Sixty months after the date of the
13 conviction, the demerit points for that conviction must be deleted
14 from the total demerit points accumulated by that person. The date
15 of the ~~violation~~ conviction shall be deemed the date on which
16 accumulated demerit points must be assessed. If a conviction of two
17 or more wildlife violations committed at a single event is obtained,
18 demerit points must be assessed for the offense having the greater
19 number of demerit points.

20 **Sec. 2.** NRS 501.1816 is hereby amended to read as follows:

21 501.1816 1. If a person accumulates 9 or more demerit
22 points, but less than 12, the Department shall notify him of that fact
23 by certified mail. If, after the Department mails the notice, the
24 person presents proof to the Department that he has, after his most
25 recent wildlife conviction, successfully completed a course of
26 instruction in the responsibilities of hunters approved by the



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1 Department, the Department shall deduct 4 demerit points from his
2 record. A person may attend a course of instruction in the
3 responsibilities of hunters only once in 60 months for the purpose of
4 reducing his demerit points.

5 2. If a person accumulates 12 or more demerit points before
6 completing a course of instruction pursuant to subsection 1, the
7 Department shall suspend or revoke any license, permit or privilege
8 issued to him pursuant to this title.

9 3. Not later than 60 days after the Department determines that a
10 person has accumulated 12 demerit points, the Department shall
11 notify the person by certified mail that his privileges will be
12 suspended or revoked. Except as otherwise provided in subsection 4,
13 the Department shall suspend or revoke those privileges 30 days
14 after it mails the notice.

15 4. Any person who receives the notice required by subsection 3
16 may submit to the Department a written request for a hearing before
17 the Commission not later than 30 days after the receipt of the notice.
18 If a written request for a hearing is received by the Department:

19 (a) The suspension or revocation of the license, permit or
20 privilege is stayed until a determination is made by the Commission
21 after the hearing.

22 (b) The hearing must be held within 60 days after the request is
23 received.

24 5. The periods of suspension or revocation imposed pursuant to
25 this section must run concurrently. Except as otherwise provided in
26 this subsection, no license, permit or privilege may be suspended or
27 revoked pursuant to this section for more than 3 years. The license,
28 permit or privilege of a person who is convicted pursuant to NRS
29 501.376 of:

30 (a) A gross misdemeanor may not be suspended or revoked for
31 more than 5 years; ~~or~~

32 (b) ~~or~~ *Except as otherwise provided in paragraph (c), a* felony
33 may not be suspended or revoked for more than 10 years ~~or~~ ; *or*

34 (c) *Two or more felonies, arising from separate events, must be*
35 *permanently revoked.*

36 6. If the Department suspends or revokes a license, permit or
37 privilege pursuant to this section, the period of suspension or
38 revocation begins 30 days after notification pursuant to subsection 3
39 or a determination is made by the Commission pursuant to
40 subsection 4. After a person's license, permit or privilege is
41 suspended or revoked pursuant to this section, all demerit points
42 accumulated by that person must be cancelled.



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1 **Sec. 3.** NRS 502.015 is hereby amended to read as follows:

2 502.015 1. For the purpose of issuing and using resident
3 licenses, tags or permits pursuant to this chapter, a person is
4 considered to be a resident of the State of Nevada if:

5 (a) He is a citizen of, or is lawfully entitled to remain in, the
6 United States; and

7 (b) During the 6 months next preceding his application to the
8 Department for a license, tag or permit, he:

9 (1) ~~Was domiciled~~ *Maintained his principal and*
10 *permanent residence* in this State;

11 (2) Was physically present in this State, except for temporary
12 absences; and

13 (3) Did not purchase or apply for any resident license, tag or
14 permit to hunt, fish or trap in another state, country or province.

15 2. A person who ~~is not domiciled~~ *does not maintain his*
16 *principal and permanent residence* in Nevada but who is attending
17 an institution of higher learning in this State as a full-time student is
18 eligible for a resident license, tag or permit if, during the 6 months
19 next preceding his application to the Department for a license, tag or
20 permit, he:

21 (a) Was physically present in Nevada, except for temporary trips
22 outside of the State; and

23 (b) Did not purchase or apply for any resident license, tag or
24 permit to hunt, fish or trap in another state, country or province.

25 3. A resident license, tag or permit issued by this State is void
26 if the person to whom it was issued establishes *or maintains* his
27 ~~domicile~~ *principal and permanent residence* in and obtains any
28 *hunting, fishing or trapping* privilege or entitlement conditional on
29 residency from another state, country or province.

30 4. *As used in this section, "principal and permanent*
31 *residence" means a place where a person is legally domiciled and*
32 *maintains a permanent habitation in which he lives and to which*
33 *he intends to return when he leaves the state in which the*
34 *permanent habitation is located. The term does not include merely*
35 *owning a residence in a state.*

36 **Sec. 4.** NRS 502.060 is hereby amended to read as follows:

37 502.060 1. A person applying for and procuring a license, *tag*
38 *or permit*, as provided in this chapter, shall give to the license agent
39 his name and residence address, which must be entered by the
40 license agent ~~on the license and stub,~~ *manually or electronically*
41 *in a record specified by the Department*, together with the date of
42 issuance and a description of the person. If a child under the age of
43 18 years is applying for a license to hunt, the child's parent or legal
44 guardian must sign the application and an attached statement



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1 acknowledging that the parent or legal guardian has been advised of
2 the provisions of NRS 41.472.

3 2. Except as otherwise provided in subsection 3, any person
4 who makes any false statement or furnishes false information to
5 obtain any license, tag or permit issued pursuant to the provisions of
6 this title is guilty of a misdemeanor.

7 3. Any person who makes any false statement or furnishes
8 false information to obtain any big game tag issued pursuant to the
9 provisions of this title is guilty of a gross misdemeanor.

10 4. It is unlawful for any person to hunt, fish or trap using any
11 hunting, fishing or trapping license which is invalid by reason of
12 expiration or a false statement made to obtain the license.

13 5. *Any person convicted of violating the provisions of*
14 *subsection 2 or 3 forfeits any bonus point or other increased*
15 *opportunity to be awarded a tag in a subsequent drawing*
16 *conducted for that tag if the bonus point or other increased*
17 *opportunity was acquired by the false statement or false*
18 *information.*

19 6. As used in this section, "big game tag" means a tag
20 permitting a person to hunt any species of pronghorn antelope, bear,
21 deer, mountain goat, mountain lion, bighorn sheep or elk.

22 **Sec. 5.** NRS 502.061 is hereby amended to read as follows:

23 502.061 1. A person , *for a fee or other form of*
24 *compensation*, may obtain or attempt to obtain on behalf of an
25 applicant any license, tag or permit issued pursuant to this chapter
26 *only* if the person acts pursuant to a power of attorney or other
27 written instrument that:

28 (a) Provides that the power of attorney or other written
29 instrument is executed for the sole purpose of authorizing the person
30 to apply in the State of Nevada on behalf of the applicant for a
31 license, tag or permit for a specific season;

32 (b) Provides that the power of attorney or other written
33 instrument expires on February 28 of the year following the year in
34 which the power of attorney or other written instrument is executed;
35 and

36 (c) Is acknowledged and includes a jurat as defined in NRS
37 240.0035, or is otherwise certified.

38 2. Any license, tag or permit which is obtained by the use of a
39 power of attorney or other written instrument that does not comply
40 with the provisions of subsection 1 is void.

41 **Sec. 6.** This act becomes effective on January 1, 2010.



An Explanation of SB411

- *This bill contains clean up language to make the laws regarding demerits, convictions of felonies and residency requirements more understandable and fair to sportsmen.*
- *The **demerit points time line** has been changed to assess demerit points after conviction instead of date the violation is committed. This ensures that no person is revoked until he or she has had an opportunity for due process. This also ensures that even if these cases take a great deal of time to adjudicate, the person convicted will have full penalty.*
- *If a person is convicted of **two or more wildlife felonies** he or she will be permanently revoked.*
- ***In regards to residency requirements**, this bill once and for all clarifies the definition of “domicile” and makes the rules for residency far easier to understand. In the past, these rules have been misunderstood. This clean up and clarification in the language will help us avoid these issues in the future.*
- *The key financial issue is the correction of this loophole in NRS which non-residents who own property in Nevada use to purchase the resident license, which is less expensive than a non-resident license. **More information on this issue (residency language) is attached.***

For more information contact:

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Nevada Department of Wildlife

Senate Bill 411 - Justification for changing “domicile” to “residency”

Residency violations are costly to the State of Nevada. These violations are not accidental. Some people commit this violation to avoid the higher cost of non-resident licenses and tags and to obtain a better position in the draw for big game tags. Individuals commit a crime by claiming residency in the state of Nevada for hunting/fishing purposes. Like most states, Nevada restricts the number of non-resident tags available, reserving most of the tags for residents of the state.

The difference in the cost of licenses and tags is outlined below.

	<u>Resident</u>	<u>Non-Resident</u>	<u>Difference</u>
Fishing License	\$ 29.00	\$ 69.00	\$ 40.00
Hunting License	\$ 33.00	\$ 145.00	\$ 109.00
Combination License	\$ 54.00	\$ 199.00	\$ 145.00
Trapping License	\$ 38.00	\$ 188.00	\$ 150.00
Deer Tag	\$ 30.00	\$ 240.00	\$ 210.00
Antelope Tag	\$ 60.00	\$ 300.00	\$ 240.00
Bighorn Sheep Tag	\$ 120.00	\$1,200.00	\$1,080.00
Elk Tag	\$ 120.00	\$1,200.00	\$1,080.00
Mountain Goat Tag	\$ 120.00	\$1,200.00	\$1,080.00
Mountain Lion Tag	\$ 29.00	\$ 104.00	\$ 75.00

In the calendar years 2007 and 2008, Nevada Department of Wildlife Game Wardens had fifteen convictions for false information to obtain a resident license (a misdemeanor) and seven convictions for providing false information to obtain a big game tag (a gross misdemeanor) respectively. This is an average of 7.5 license violations and 3.5 tag violations.

Using the combination license and deer tags as an example this would represent a potential loss of \$ 3,500.00 to the Department of Wildlife.

This crime, like many wildlife crimes, is a very secretive offense. It is usually only discovered when individuals are reported through the Operation Game Thief program or direct contact with a Game Warden. As a result, it is estimated that less than 1% of the actual violations of this type are even discovered.

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It is estimated that there are approximately 750 violations of our residency laws involving the purchase of hunting/fishing or combination licenses. Using license sale numbers from 2007 - 2008 (last year available) this would indicate a loss of revenue of **\$18,920.00** for fishing licenses (63% of license sales), **\$11,445.00** for hunting licenses (14% of license sales) and **\$25,085.00** for combination licenses (23% of license sales). This is a total of approximately **\$ 55,450.00** dollars lost each year.

Most individuals who purchase a hunting license participate in the big game tag drawings for the opportunity to hunt big game in Nevada. This correlates to almost 48,117 individuals applying for big game tags. It is estimated that approximately 350 of those individuals will be violating residency laws. It is also estimated that each client applies for 2.74 tags (from NDOW Hunt Summary documents). This equates to 959 violations of residency laws.

Using this data, and applying it only to deer tags with 4 to 1 odds of drawing a tag, would result in approximately 240 deer tags being fraudulently obtained by non-residents applying as residents. This equates to a total loss of revenue of approximately **\$50,400.00** per year. This would increase if there were other tags involved because all other tags for big game are more expensive than deer tags.

Further, assuming an approximate 40% successful harvest rate that equates into 96 deer unlawfully killed by non-residents. Applying an average civil penalty of \$2,500.00 would total **\$240,000.00** dollars worth of animals stolen from the citizens of Nevada. Also, by taking these animals with invalid tags, these actions could be charged as felonies under NRS 501.376.

In addition, for every application by a non-resident applying as a resident entered in the draw process, it reduces the odds of drawing a big game tag for the lawful residents of Nevada, thus, decreasing the opportunity of lawful residents to even draw a tag. For every tag that is unlawfully drawn by a non-resident applying as a resident, there is a resident hunter who is directly impacted by not having the opportunity to utilize that particular tag.

An example of a residency fraud case was completed in early 2009. A husband and wife from California had been obtaining resident licenses and applying in Nevada for big game tags as residents for over 12 years (dating back to 1992). They were facing a total of 22 instances of false information to obtain big game tags and 2 counts of providing false information to obtain resident licenses. These charges were based on fraudulent activities dating back to 2004. They were not charged for the entire time they had been participating in this illegal activity (dating back to 1992). In this case, both people applied as residents for a variety of big game species each year. Like most of these types of cases, this case was investigated after an anonymous tip was phoned in to the OGT Program Director. The case took several years to investigate and prosecute.

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This case alone represents a potential loss of over \$11,000 dollars. Dating back to 1992 when they established residency in California, it represents an actual loss (based on license purchases and tags obtained) of \$ 6,191.00 dollars. Hunt records indicate they took a mountain goat, a California bighorn sheep, mountain lion, antelope and two deer. This case represents a loss of valuable resources worth at least \$ 20,500.00 to the citizens of the state of Nevada based.

In addition, this case demonstrates a common trend with this type of violation. In this case the individuals were allowed to plead guilty to one misdemeanor charge of false information to obtain a license and two counts of false information to obtain big game tags. In most instances, if a person is applying fraudulently for big game tags, it is predicated on the purchase of a resident license to which they are not entitled and they generally apply for more than one big game tag.

In another blatant example of residency violation for personal gain, a trapper from Utah claimed residency in Nevada to purchase a resident trapping license. He proceeded to trap bobcats, (an activity which is closed to non-residents) and offer them for sale. Once discovered and prosecuted, this individual had harvested slightly over \$15,000.00 dollars worth of animals that rightfully belong to all residents of Nevada.

To summarize, it is estimated that Nevada has approximately 750 violations of residency requirements as applied to the purchase of various resident license privileges. It is estimated that there are approximately 350 violations of Nevada's residency requirements as applied to the application for big game tags. As a direct result of this license fraud NDOW is losing a conservative estimate of **\$105,850.00** dollars each year.

In addition, it can be conservatively estimated that the citizens of the State of Nevada are being robbed of over **\$240,000.00** worth of wildlife resources that belong to all Nevadans as a direct result of this type of license fraud.

Finally, as well as the monetary value, individual citizen's are being robbed of their opportunity to draw a tag or being able to utilize the tag drawn by a non-resident in violation of our laws.

is to increase the public's knowledge across all nuisance species, the use of these funds for this purpose is appropriate. **This recommendation appears reasonable and staff recommends approval of this decision unit as submitted by the Governor.**

8. Decision units E-501 and E-901 are related to a recommendation to transfer \$459,235 in federal funds in each year of the 2009-11 biennium from the Obligated Reserve (BA 4458) account to this account for the water development program. The recommended transfer would separate the water development program from programs in the Obligated Reserve account funded from restricted revenue sources, including fees and assessments. An adjustment to decision unit E-501 is included in this account based upon staff's recommendation that the funding for the water development program remain in a special use category if the transfer of the program's funding to this account is approved. This recommendation is discussed in more detail in the closing document for the Obligated Reserve account.
9. Decision unit E-730 recommends \$66,655 in FY 2010 and \$68,207 in FY 2011 (\$63,695 reserve/\$71,167 federal funds) for maintenance at hatchery and wildlife management area residences. The agency maintains 23 employee residences statewide, which range in age from newer residences that were built in the 1990s to older residences built in the 1950s. Based upon questions from staff, information was provided by the agency that indicates that this funding, in addition to base budget authority of \$10,091, would be used for agency residence repairs totaling \$76,746 in FY 2010 and \$78,298 in FY 2011. The FY 2010 improvements would include:
 - Mason Valley Hatchery residence furnaces, appliances, flooring, windows, lawn and irrigation system removal, and installation of backflow preventers; and repair contingency funds (\$55,246).
 - Mason Valley Wildlife Management area residence window replacement (\$9,500); and statewide residence repair contingency funds (\$12,000).

In FY 2011, the recommended improvements include the Kirch Wildlife Management Area residence siding and door replacement, site grading, and the design and installation of a drainage system (\$78,298).

This recommendation appears reasonable and staff recommends approval of this decision unit as recommended by the Governor.

10. Decision unit E-737, which is related to Senate Bill 411 (2009 Session), recommends \$42,975 in each year of the 2009-11 biennium in new license and fee revenue estimated to result from clarifying existing statutory provisions regarding qualifications to purchase resident versus non-resident hunting and fishing licenses. Senate Bill 411, among other things, clarifies who qualifies for resident hunting and fishing licenses by modify existing statute to replace the word "domicile" with wording that requires an individual to maintain a permanent and principle residence in the state in order to qualify for resident licenses. Senate Bill 411 is in the Senate Finance Committee. **This recommendation appears reasonable and staff recommends approval contingent on passage of Senate Bill 411.**
11. Decision unit E-850 recommends \$75,000 in federal Bureau of Reclamation grant funds in each year of the 2009-11 biennium to evaluate conditioning and feeding techniques that would improve swimming stamina, conditioning, and predator escape skills in order to increase the survival rate of razorback suckers after release. The federal funds would be used to pay operating supplies and fish food (\$34,600), and utility costs for raceway water delivery (\$48,000). The remaining federal funds of \$67,400 are recommended to be placed in reserve to offset authorized personnel services costs. **This recommendation appears reasonable and staff recommends approval of this decision unit as recommended by the Governor.**