

**REVISED PROPOSED REGULATION OF
THE BOARD OF WILDLIFE COMMISSIONERS**

LCB File No. R022-19

February 14, 2020

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

AUTHORITY: §§1-4, NRS 501.105, 501.181, 502.103, 502.160 and 502.250; §5, NRS 501.105, 501.181, 502.160, 502.219 and 502.250.

A REGULATION relating to wildlife; setting forth certain provisions relating to the transfer, return or deferral of the use of a tag under certain extenuating circumstances; revising certain provisions relating to the refund of a tag; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Board of Wildlife Commissioners to establish a program whereby a hunter who has obtained a tag to hunt certain wildlife may transfer, return or defer the use of his or her tag in the event of an extenuating circumstance. (NRS 502.103) **Section 1** of this regulation sets forth: (1) what constitutes an “extenuating circumstance”; and (2) the process for the transfer, return or deferral of the use of a tag for such an extenuating circumstance.

Existing law authorizes the Commission to adopt regulations authorizing the return of certain fees collected from a person for a tag. (NRS 502.250) Existing regulations provide that a person may return a tag under certain circumstances. The tag must be received by the Department of Wildlife at least 1 business day before the opening day of the season for which the tag was issued. (NAC 502.422) **Section 1** provides that a person may return or defer the use of a tag if he or she incurs certain extenuating circumstances after the date by which he or she may receive a refund, but before the hunting hours begin on the opening day of the season for which the tag was issued. **Section 4** of this regulation provides that if the holder of a tag transfers his or her tag to another person due to an extenuating circumstance, the holder of the tag and the new recipient of the tag lose all of their bonus points for that species or category of species. **Sections 2 and 3** of this regulation make conforming changes.

Existing regulations authorize the holder of a tag to return the tag for a refund under certain circumstances, including if the holder or a certain relative of the holder incurs a disability which prevents him or her from hunting during the season for which the tag was issued. (NAC

502.422) **Section 5** of this regulation authorizes the holder of a tag to also return a tag for a refund if the holder or a certain relative of the holder incurs an illness which prevents him or her from hunting during the season for which the tag was issued.

Section 1. Chapter 502 of NAC is hereby amended by adding thereto a new section to read as follows:

1. A holder of a tag may claim an extenuating circumstance and request to transfer the tag, return the tag for the restoration of bonus points or defer the use of the tag pursuant to NRS 502.103 only in accordance with the requirements of this section.

2. If the holder of a tag is diagnosed as terminally ill before hunting hours begin on the opening day of the season for which the tag was issued, the holder of the tag may claim an extenuating circumstance and request to transfer the tag to another person who is otherwise eligible to hunt a big game mammal in this State.

3. Except as otherwise provided in subsection 7, the Department shall allow the holder of a tag to return the tag to the Department for the restoration of any bonus points that he or she used to obtain the tag or defer the use of the tag to the next applicable hunting season if any of the following extenuating circumstances occur after the last day that the holder is entitled to return the tag pursuant to NAC 502.422, but before the hunting hours begin on the opening day of the season for which the tag was issued:

(a) The death of a family member of the holder of the tag, as verified by a certificate of death;

(b) The holder of the tag or a family member of the holder incurs a severe and unanticipated injury or illness which prevents the holder from hunting during the season for which the tag was issued, as verified in writing by a physician; or

(c) The holder of the tag is serving in the Armed Forces of the United States and is transferred to a location which makes it impracticable for the holder to hunt in the area for which the tag was issued, as verified by a copy of his or her orders or other proof satisfactory to the Department.

4. If the holder of the tag claims an extenuating circumstance as described in subsections 2 and 3, he or she must:

(a) Return the tag to the Department not later than 14 business days after the opening day of the season for which the tag was issued;

(b) Attest that he or she did not hunt on the tag; and

(c) Submit evidence to the Department of the extenuating circumstance. In the case of the death of a family member, if the holder of the tag has not received a death certificate for the deceased person within the 14 business days required to return the tag to the Department pursuant to paragraph (a), the death certificate may be submitted to the Department at such time as the holder of the tag receives a copy of the death certificate.

5. If a tag is transferred to another person pursuant to this section, both the original holder of the tag and the new recipient of the tag will be treated as if he or she drew the tag with respect to any applicable waiting periods and bonus points.

6. The Department shall process the transfer, return or deferral within 5 business days after receiving the tag.

7. The provisions of this section do not apply to the holder of a tag who is serving in the Armed Forces of the United States if he or she defers the use of a tag pursuant to NAC 502.336.

8. The Department shall update the Commission on all tags that are transferred, returned or deferred pursuant to this section.

9. As used in this section:

(a) "Family member" has the meaning ascribed to it in NRS 502.103.

(b) "Terminally ill" has the meaning ascribed to it in NRS 449A.081.

Sec. 2. NAC 502.336 is hereby amended to read as follows:

502.336 1. ~~FA~~ *Except as otherwise provided in subsection 4, a* person who receives a game tag and who, after receiving the tag, is mobilized or deployed while serving on active duty in the Armed Forces of the United States may:

(a) Return the tag for a refund as provided in NAC 502.422; and

(b) Request that, without entering the drawing for game tags, the privilege to hunt during the season for which the tag is issued be deferred for an identical privilege for not more than 2 successive years during which the hunting season for the identical privilege is open. The person must exercise the privilege during the 2 successive years. If the person did not go hunting under the authority of a hunting license issued to him or her for the hunt year in which the tag was issued, the person may return the hunting license for a refund.

2. To be eligible to defer the privilege to use a game tag pursuant to subsection 1, the person must:

(a) Provide a copy of the person's orders or other proof satisfactory to the Department;

(b) Submit a written request to the Department to defer the privilege pursuant to subsection 1 together with the request for a refund pursuant to NAC 502.422;

(c) Return the tag and, if applicable, the hunting license to the Department:

(1) Except as otherwise provided in subparagraph (2), before the opening day of the season for which the tag was issued; or

(2) Before the close of the season for which the tag was issued, if the person provides proof satisfactory to the Department that he or she was mobilized or deployed before the opening day of the season for which the tag was issued and had no opportunity to hunt under the authority of the tag; and

(d) Submit to the Department:

(1) The appropriate fee for the issuance of a game tag and a hunting license, if applicable; and

(2) The nonrefundable application fee and predator fee for the tag.

3. The Department shall not issue a license or tag pursuant to this section unless the Department receives the fees specified in paragraph (d) of subsection 2.

4. The provisions of this section do not apply to the holder of a tag who is serving on active duty in the Armed Forces of the United States if he or she returns or defers the use of the tag pursuant to section 1 of this regulation.

Sec. 3. NAC 502.385 is hereby amended to read as follows:

502.385 1. The tag or permit must be carried by the holder at all times while the holder is hunting or trapping or while he or she is fishing for wildlife for which a tag or permit is required.

2. Except as otherwise provided in NAC 502.42905 ~~H~~ *and section 1 of this regulation*, it is unlawful for any person to:

- (a) Use or possess a tag or permit issued to any other person;
- (b) Transfer or give a tag or permit issued to him or her to any other person;
- (c) Use any tag or permit in a management area or unit for which it is not intended; or
- (d) Use a tag or permit at any time other than at the time intended.

3. After it has been issued, a tag or permit may not be exchanged or a refund made except in accordance with the policies and regulations of the Commission.

Sec. 4. NAC 502.4187 is hereby amended to read as follows:

502.4187 1. Except as otherwise provided in NAC 502.417 to 502.4225, inclusive, an applicant to obtain a tag for a season who is unsuccessful, or an applicant for a bonus point who does not wish to obtain a tag and is applying for the sole purpose of earning a bonus point, must be awarded a bonus point for:

- (a) The hunt number of the species for which the applicant applied if he or she applied for a:
 - (1) Tag to hunt wild turkey; or
 - (2) Bonus point for a tag described in subparagraph (1); or

(b) The category of the species for which he or she applied if he or she applied for a tag to hunt deer, elk, mountain goat, antelope, black bear, moose or bighorn sheep, or for a bonus point for such a tag.

↳ Regardless of the number of applications to obtain a tag or bonus point for a season submitted by a person, the Department shall not award the person more than one bonus point per season for each species or category of a species for which the person applied.

2. Except as otherwise provided in subsections 3 and 4, the bonus points awarded to a person accumulate until the person is successful in drawing a tag for a season for that species or category of a species or the person fails to apply for a season for 2 consecutive calendar years during which that type of hunt for a season is open. If an applicant is successful in drawing a tag for a season for a species or category of a species or fails to apply for a season for 2 consecutive calendar years during which that type of hunt for a season is open, the applicant loses all of his or her bonus points for that species or category of a species.

3. Except as otherwise provided in NAC 502.4189, a person may not use any bonus points awarded to the person for being unsuccessful in a junior hunt to apply for a drawing for a tag for any other type of hunt after the person is no longer eligible to participate in a junior hunt.

4. If a person is successful in obtaining a tag for a species or category of a species pursuant to NAC 502.4215, he or she must not lose any bonus point awarded to him or her for that species or category of a species.

5. If an applicant requests and receives a refund for the value of his or her hunting license, the Department shall not award the applicant a bonus point for any species or category of species applied for during the period that the applicant possessed the hunting license.

6. *If an applicant is successful in obtaining a tag for a species or category of a species but transfers the tag to another person pursuant to section 1 of this regulation, the applicant and the new recipient of the tag lose all bonus points for that species or category of species.*

7. The Department shall not award bonus points for depredation hunts or management hunts.

~~7.1~~ 8. As used in this section, “management hunt” means a hunt established to seek the harvest of additional wildlife within a population.

Sec. 5. NAC 502.422 is hereby amended to read as follows:

502.422 1. The Department may cancel a tag and provide a refund if the Department issues the tag in error.

2. The Department shall provide a refund if the holder of a tag:

(a) Or a person to whom the holder is related within the third degree of consanguinity or affinity dies, as verified by a certificate of death;

(b) Or a person to whom the holder is related within the third degree of consanguinity or affinity incurs a disability ~~or~~ *or illness*, as verified in writing by a physician, which prevents him or her from hunting during the season for which the tag was issued;

(c) Is serving in the Armed Forces of the United States and is transferred, as verified by a copy of his or her orders or other proof satisfactory to the Department, to a location which makes it impracticable for the holder to hunt in the area for which the tag was issued; or

(d) Is a recipient of a Dream Tag issued pursuant to NRS 502.219 and returns the drawn tag to the Department pursuant to NAC 502.42695,

↪ and, except as otherwise provided in NAC 502.336, his or her tag is received by the Department at least 1 business day before the opening day of the season for which the tag was issued. If the holder obtained his or her hunting license with his or her tag, the hunting license may be returned with the tag.

3. If a refund is provided pursuant to subsection 1 or 2, the Department shall:

(a) Return all the fees submitted with the application for the tag except the fees required pursuant to NRS 502.253 and NAC 502.331; and

(b) Except as otherwise provided in subsection 2 of NAC 502.4225, treat the recipient of the refund, with respect to his or her eligibility to obtain a tag and to be awarded a bonus point, as if the tag had not been issued and the applicant was unsuccessful.

4. If a tag for any subspecies of bighorn sheep or mountain goat is returned for a reason other than the reasons set forth in subsection 1 or 2, the Department shall:

(a) If the tag is received not later than July 15, return all the fees submitted with the application for the tag except the fees required pursuant to NRS 502.253 and NAC 502.331; and

(b) Except as otherwise provided in subsection 2 of NAC 502.4225, treat the recipient of the refund, with respect to his or her eligibility to obtain a tag and to be awarded a bonus point, as if the tag had not been issued and the applicant was unsuccessful.

5. If a tag for antelope, bighorn sheep, mountain goat, bear, turkey, deer, moose or elk is returned for a reason other than the reasons set forth in subsection 1 or 2, and if the tag is received at least 1 business day before the opening day of the season for which the tag was issued, the Department:

(a) Shall, except as otherwise provided in subsection 2 of NAC 502.4225, treat the applicant, with respect to his or her eligibility to obtain a tag and to be awarded a bonus point, as if the tag had not been issued and the applicant was unsuccessful; and

(b) Shall not return any fee paid for the tag.

6. Except as otherwise provided in NAC 502.421, the Department is not required to refill a quota for the issuance of tags if the application of this section reduces the number of tags issued to less than a quota.