

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-0636.01 Jennifer Berman x3286

HOUSE BILL 20-1087

HOUSE SPONSORSHIP

Will and Arndt, Bird, Buentello, Duran, McCluskie, McLachlan, Michaelson Jenet, Roberts, Soper, Titone, Woodrow

SENATE SPONSORSHIP

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House Committees

Rural Affairs & Agriculture

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Agriculture & Natural Resources

A BILL FOR AN ACT

101 **CONCERNING THE ENFORCEMENT OF LAWS ADMINISTERED BY THE**
102 **DIVISION OF PARKS AND WILDLIFE, AND, IN CONNECTION**
103 **THEREWITH, MODIFYING PARKS AND WILDLIFE STATUTES TO**
104 **CORRECT VAGUE AND CONTRADICTORY PROVISIONS OF LAW**
105 **AND REMOVE OBSOLETE PROVISIONS OF LAW.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 1 of the bill amends a legislative declaration to clarify that any person, not just hunters, may be prosecuted for violations of parks

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
February 13, 2020

HOUSE
2nd Reading Unamended
February 12, 2020

and wildlife statutes.

Section 2 amends the definition of "take" to clarify that the term includes the killing of wildlife with certain exceptions.

Section 3 states that licenses issued by the division of parks and wildlife (division) are not subject to the "Secure and Verifiable Identity Document Act".

Sections 4 and 11 clarify that a person who is convicted of a violation of a parks and wildlife statute that does not list a specific penalty is subject to a fine of \$100. Section 4 also provides that a person convicted of such a violation of the wildlife statutes is subject to a penalty assessment of 5 license suspension points.

Section 4 extends the period of time within which an alleged offender may pay fines and surcharges identified in a penalty assessment notice issued to the alleged offender from 15 days to 20 days. Section 4 also authorizes personal service or service by certified mail of a summons and complaint or a penalty assessment notice.

Section 5 authorizes the parks and wildlife commission or a hearing officer to suspend a person's license issued by the division for a failure to comply with an official notice of an alleged violation of the parks and wildlife statutes. The suspension is lifted once the person furnishes or causes to be furnished to the division satisfactory evidence of compliance with the official notice of an alleged violation.

Section 6 makes the imposition of additional penalties regarding the unlawful taking of trophy animals permissive instead of mandatory.

Section 7 amends the definition of "careless" regarding the violation of hunting in a careless manner and authorizes a lesser fine for a person who commits the violation while hunting under a big game license for a different type of animal than the type of animal killed and who immediately field dresses the killed animal and reports the killing to the division.

Sections 8, 9, and 12 amend the definition of "vessel" to include all types of stand-up paddleboards. Section 12 also excludes from the definition of "river outfitter" a person whose only service is providing instruction in rafting or stand-up paddleboarding.

Section 10 authorizes a person to possess a loaded pistol or revolver while snowmobiling and clarifies that the division may authorize certain conduct while operating a snowmobile that is otherwise unlawful.

Section 13 prohibits a river outfitter, guide, trip leader, or guide instructor from allowing another person to operate a vessel without due regard for river conditions or other attending circumstances or in a manner that endangers any person, property, or wildlife.

Section 14 makes a conforming amendment.

1 **SECTION 1.** In Colorado Revised Statutes, 33-1-101, **amend** (5)
2 as follows:

3 **33-1-101. Legislative declaration.** (5) The general assembly
4 declares that it is the policy of the state to prosecute ~~hunters~~ PERSONS who
5 violate multiple provisions of this ~~title~~ TITLE 33 for each violation that
6 contains unique elements.

7 **SECTION 2.** In Colorado Revised Statutes, 33-1-102, **amend**
8 (43) as follows:

9 **33-1-102. Definitions.** As used in this title 33, unless the context
10 otherwise requires:

11 (43) "Take" means to KILL OR OTHERWISE acquire possession of
12 wildlife; ~~but such~~ EXCEPT THAT THE term ~~shall~~ DOES not include the
13 accidental wounding or killing of wildlife by a motor vehicle, vessel, or
14 train.

15 **SECTION 3.** In Colorado Revised Statutes, 33-4-102, **add** (7.5)
16 as follows:

17 **33-4-102. Types of licenses and fees - rules.** (7.5) THE DIVISION
18 OR A LICENSE AGENT ISSUING A LICENSE ON THE DIVISION'S BEHALF NEED
19 NOT COMPLY WITH SECTION 24-72.1-103 CONCERNING SECURE AND
20 VERIFIABLE IDENTITY DOCUMENTS WHEN ISSUING A LICENSE PURSUANT TO
21 THIS SECTION.

22 **SECTION 4.** In Colorado Revised Statutes, **amend** 33-6-104 as
23 follows:

24 **33-6-104. Imposition of penalty - procedures.** (1) A person ~~who~~
25 ~~violates any rule of the commission for which there is not an associated~~
26 ~~statutory penalty listed~~ is guilty of a misdemeanor and, upon conviction
27 thereof, shall be punished by a fine of one hundred dollars, a surcharge

1 as described in section 24-33.5-415.6, and an assessment of five license
2 suspension points FOR A VIOLATION OF ANY OF THE FOLLOWING FOR
3 WHICH THERE IS NOT AN ASSOCIATED STATUTORY PENALTY LISTED:

4 (a) A PROVISION OF ARTICLES 1 TO 6 OF THIS TITLE 33; OR

5 (b) A RULE OF THE COMMISSION PROMULGATED PURSUANT TO ONE
6 OR MORE OF THE ARTICLES SPECIFIED IN SUBSECTION (1)(a) OF THIS
7 SECTION.

8 (2) (a) (I) At the time that ~~any~~ A person is charged with violating
9 any misdemeanor provisions of articles 1 to 6 of this ~~title~~ TITLE 33 or ~~any~~
10 A rule of the commission, the officer shall issue a summons and
11 complaint to the alleged offender or, in the case of a violation for which
12 a fine of a fixed amount is prescribed, may give the alleged offender an
13 opportunity to voluntarily pay the fine and surcharge in the form of a
14 penalty assessment.

15 (II) AN OFFICER SHALL NOT ISSUE A ~~penalty assessments shall not~~
16 ~~be issued~~ ASSESSMENT for violations for which minimum and maximum
17 fines have been established. The penalty assessment notice given to the
18 alleged offender ~~shall~~ MUST:

19 (A) Contain the information required ~~in and~~ FOR A SUMMONS AND
20 COMPLAINT;

21 (B) Be in the form of a summons and complaint; and ~~shall~~

22 (C) Specify in dollars the amount of the penalty to be assessed for
23 the alleged offense and the amount of the surcharges to be collected
24 pursuant to sections 24-4.2-104 (1) and 24-33.5-415.6. ~~C.R.S.~~

25 (b) If the alleged offender accepts ~~such~~ THE PENALTY ASSESSMENT
26 notice and pays the fine and the surcharges entered ~~thereon~~ ON THE FINE
27 to the division within ~~fifteen~~ TWENTY days of issuance of the notice, ~~such~~

1 THE ALLEGED OFFENDER'S acceptance and payment ~~shall constitute~~
2 CONSTITUTES an acknowledgment of guilt by such person of the violation
3 set forth in the penalty assessment notice.

4 (c) (I) AN OFFICER MAY TAKE any person who accepts a penalty
5 assessment notice but who does not furnish satisfactory evidence of
6 identity or who the officer has reasonable and probable grounds to believe
7 will disregard a written promise to pay the specified fine and surcharges
8 ~~may be taken by the officer~~ to the nearest known post office facility ~~and~~
9 ~~be required~~ to REQUIRE THAT THE PERSON remit the amount of the
10 specified fine and surcharges to the division immediately by mail in
11 United States currency or other legal tender OR by money order or BY
12 personal check.

13 (II) Refusal or inability to remit the specified fine and surcharges
14 by mail when required ~~shall constitute~~ CONSTITUTES a refusal to accept
15 a penalty assessment notice. The officer shall advise the person arrested
16 of the license suspension points to be assessed in accordance with section
17 33-6-106.

18 (III) Checks tendered by the violator to and accepted by the
19 division and ~~on~~ FOR which payment is received by the division ~~shall be~~
20 ARE deemed sufficient receipt. If the fine and surcharges are not ~~so~~ paid,
21 then the officer who issued the penalty assessment notice shall docket the
22 summons and complaint with a court of competent jurisdiction for
23 appearance by the person to answer the charges ~~therein~~ contained IN THE
24 SUMMONS AND COMPLAINT at ~~such~~ THE time and place ~~as is~~ specified in
25 the summons and complaint.

26 (3) (a) SERVICE OF A COPY OF A SUMMONS AND COMPLAINT OR
27 PENALTY ASSESSMENT NOTICE ISSUED PURSUANT TO SUBSECTION (2) OF

1 THIS SECTION MUST BE PROVIDED AT LEAST TEN DAYS BEFORE THE DATE
2 SET FOR A HEARING ON THE MATTER BY:

3 (I) PROVIDING PERSONAL SERVICE OF THE COPY DIRECTLY TO THE
4 ALLEGED OFFENDER;

5 (II) LEAVING THE COPY AT THE ALLEGED OFFENDER'S LAST-KNOWN
6 PLACE OF RESIDENCE WITH AN INDIVIDUAL WHO IS EIGHTEEN YEARS OF
7 AGE OR OLDER AND WHO RESIDES AT THE RESIDENCE; OR

8 (III) MAILING THE COPY TO THE ALLEGED OFFENDER'S
9 LAST-KNOWN PLACE OF RESIDENCE BY CERTIFIED MAIL, RETURN RECEIPT
10 REQUESTED. SERVICE BY CERTIFIED MAIL IS COMPLETE UPON RETURN OF
11 THE RECEIPT SIGNED BY THE ALLEGED OFFENDER.

12 (b) AN INDIVIDUAL WHO PROVIDES PERSONAL SERVICE PURSUANT
13 TO SUBSECTION (3)(a)(I) OF THIS SECTION MUST BE A DISINTERESTED
14 PARTY WHO IS EIGHTEEN YEARS OF AGE OR OLDER.

15 **SECTION 5.** In Colorado Revised Statutes, 33-6-106, **add** (1.3)
16 as follows:

17 **33-6-106. Suspension of license privileges.** (1.3) (a) THE
18 COMMISSION OR A HEARING OFFICER THAT THE COMMISSION DELEGATES
19 TO HEAR A MATTER MAY SUSPEND A PERSON'S LICENSE IN ACCORDANCE
20 WITH SUBSECTION (1) OF THIS SECTION IF THE PERSON FAILS TO COMPLY
21 WITH THE TERMS OF A SUMMONS, COMPLAINT, SUMMONS AND COMPLAINT,
22 PENALTY ASSESSMENT NOTICE, OR OTHER OFFICIAL NOTICE OF AN
23 ALLEGED VIOLATION OF ARTICLES 1 TO 6 OF THIS TITLE 33 ISSUED BY A
24 COLORADO WILDLIFE OFFICER, PARKS OFFICER, OR OTHER PEACE OFFICER.

25 (b) A SUSPENSION ISSUED PURSUANT TO THIS SUBSECTION (1.3)
26 REMAINS IN EFFECT UNTIL THE PERSON FURNISHES OR CAUSES TO BE
27 FURNISHED SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE TERMS OF

1 THE SUMMONS, COMPLAINT, SUMMONS AND COMPLAINT, PENALTY
2 ASSESSMENT NOTICE, OR OTHER OFFICIAL NOTICE OF AN ALLEGED
3 VIOLATION OF ARTICLES 1 TO 6 OF THIS TITLE 33. THE DIVISION SHALL
4 ENTER THE SUSPENSION IN ACCORDANCE WITH ARTICLE III OF THE
5 "WILDLIFE VIOLATOR COMPACT", PART 26 OF ARTICLE 60 OF TITLE 24,
6 AND SHALL REMOVE THE ENTRY UPON SATISFACTORY EVIDENCE OF THE
7 PERSON'S COMPLIANCE WITH AN OFFICIAL NOTICE OF AN ALLEGED
8 VIOLATION.

9 **SECTION 6.** In Colorado Revised Statutes, 33-6-109, **amend**
10 (3.4)(a) introductory portion as follows:

11 **33-6-109. Wildlife - illegal possession.** (3.4) (a) In addition to
12 the criminal penalties listed in subsection (3) of this section, there ~~shall~~
13 MAY be assessed a further penalty in the following amount for each of the
14 following big game animals illegally taken:

15 **SECTION 7.** In Colorado Revised Statutes, **amend** 33-6-122 as
16 follows:

17 **33-6-122. Hunting in a careless manner - definition.** (1) (a) It
18 is unlawful for any person to hunt or take wildlife in a careless manner or
19 to discharge a firearm or release an arrow in a careless manner ~~which~~
20 THAT endangers human life or property.

21 (b) For the purposes of this section, "careless" means failing to
22 exercise the degree of reasonable care that would be exercised by a
23 person of ordinary prudence under all the existing circumstances. ~~in~~
24 ~~consideration of the probable danger of injury or damage.~~

25 (2) (a) ~~Any~~ EXCEPT AS PROVIDED IN SUBSECTION (2)(b) OF THIS
26 SECTION, A person who violates this section is guilty of a misdemeanor
27 and, upon conviction thereof, shall be punished by a fine of not less than

1 one hundred dollars nor more than one thousand dollars or by
2 imprisonment in the county jail for up to one year, or by both such fine
3 and imprisonment, and an assessment of twenty license suspension points.

4 (b) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A FINE
5 OF FIVE HUNDRED DOLLARS AND AN ASSESSMENT OF FIFTEEN LICENSE
6 SUSPENSION POINTS IF AT THE TIME OF THE VIOLATION THE PERSON:

7 (I) WAS HUNTING UNDER A VALID BIG GAME LICENSE;

8 (II) KILLED A BIG GAME ANIMAL THAT IS NOT COVERED BY THE
9 LICENSE; AND

10 (III) (A) IMMEDIATELY FIELD DRESSED THE ANIMAL; AND

11 (B) REPORTED THE KILLING OF THE ANIMAL TO THE DIVISION.

12 **SECTION 8.** In Colorado Revised Statutes, 33-10-102, **amend**
13 the introductory portion and (27) as follows:

14 **33-10-102. Definitions.** As used in articles 10 to 15 of this ~~title~~
15 TITLE 33, unless the context otherwise requires:

16 (27) (a) "Vessel" means every description of watercraft used or
17 capable of being used as a means of transportation of persons and
18 property on the water, ~~other than~~ INCLUDING ALL TYPES OF STAND-UP
19 PADDLEBOARDS.

20 (b) "VESSEL" DOES NOT INCLUDE:

21 (I) ANY single-chambered, air-inflated devices THAT ARE NOT
22 STAND-UP PADDLEBOARDS; or

23 (II) Seaplanes.

24 **SECTION 9.** In Colorado Revised Statutes, 33-13-102, **amend**
25 the introductory portion and (5) as follows:

26 **33-13-102. Definitions.** As used in this ~~article~~ ARTICLE 13, unless
27 the context otherwise requires:

1 (5) (a) "Vessel" means every description of watercraft used or
2 capable of being used as a means of transportation of persons and
3 property on the water, ~~other than~~ INCLUDING ALL TYPES OF STAND-UP
4 PADDLEBOARDS.

5 (b) "VESSEL" DOES NOT INCLUDE:

6 (I) ANY single-chambered air-inflated devices THAT ARE NOT
7 STAND-UP PADDLEBOARDS; or

8 (II) Seaplanes.

9 **SECTION 10.** In Colorado Revised Statutes, 33-14-117, **amend**
10 (1); and **add** (1.5) as follows:

11 **33-14-117. Hunting, carrying weapons on snowmobiles -**
12 **prohibitions.** (1) EXCEPT AS PROVIDED IN SUBSECTION (1.5) OF THIS
13 SECTION, it is unlawful for any person to:

14 (a) Hunt any wildlife from a snowmobile;

15 (b) Operate or ride on any snowmobile with any firearm OTHER
16 THAN A PISTOL OR A REVOLVER in ~~his or her~~ THE PERSON'S possession,
17 unless ~~such~~ THE firearm is unloaded and enclosed in a carrying case or
18 inserted in a scabbard, or with any bow unless it is unstrung or cased; ~~but~~
19 EXCEPT THAT this ~~paragraph (b)~~ SUBSECTION (1)(b) does not apply to ~~any~~
20 A person to whom the division has issued a permit for the control of
21 predators such as coyotes, foxes, AND bobcats; ~~and the like;~~ OR

22 (c) Pursue, drive, or otherwise intentionally disturb or harass any
23 wildlife by use of a snowmobile; ~~but this paragraph (c) shall not prevent~~
24 ~~any~~ EXCEPT THAT A person ~~from using~~ MAY USE a snowmobile to protect
25 ~~his~~ THE PERSON'S crops and other property.

26 (1.5) A PERSON MAY PERFORM THE ACTIVITIES LISTED IN
27 SUBSECTION (1) OF THIS SECTION IF THE PERSON IS OTHERWISE

1 AUTHORIZED BY LAW OR BY THE DIVISION TO DO SO.

2 **SECTION 11.** In Colorado Revised Statutes, 33-15-102, **amend**
3 (1) as follows:

4 **33-15-102. Imposition of penalty - procedures.** (1) A person
5 ~~who violates any rule of the commission for which there is not an~~
6 ~~associated statutory penalty listed~~ is guilty of a class 2 petty offense and,
7 upon conviction, shall be punished by a fine of one hundred dollars FOR
8 A VIOLATION OF ANY OF THE FOLLOWING FOR WHICH THERE IS NOT AN
9 ASSOCIATED STATUTORY PENALTY LISTED:

10 (a) ANY PROVISION OF ARTICLES 10 TO 15 OR ARTICLE 32 OF THIS
11 TITLE 33; OR

12 (b) A RULE OF THE COMMISSION PROMULGATED PURSUANT TO ONE
13 OR MORE OF THE ARTICLES SPECIFIED IN SUBSECTION (1)(a) OF THIS
14 SECTION.

15 **SECTION 12.** In Colorado Revised Statutes, 33-32-102, **amend**
16 the introductory portion, (6), and (8) as follows:

17 **33-32-102. Definitions.** As used in this ~~article~~ ARTICLE 32, unless
18 the context otherwise requires:

19 (6) (a) "River outfitter" means ~~any~~ A person advertising to provide
20 or providing river-running services in the nature of facilities, guide
21 services, or transportation for the purpose of river-running. ~~except that~~

22 (b) "River outfitter" does not include ~~any~~ A person:

23 (I) Whose only service is providing motor vehicles, vessels, and
24 other equipment for rent; ~~any person~~

25 (II) Whose only service is providing instruction in STAND-UP
26 PADDLEBOARDING, canoeing, or kayaking skills; or ~~any person~~

27 (III) Who is providing river-running services exclusively for

1 family or friends.

2 (8) (a) "Vessel" means every description of watercraft used or
3 capable of being used as a means of transportation of persons and
4 property on the water, ~~other than~~ INCLUDING ALL TYPES OF STAND-UP
5 PADDLEBOARDS.

6 (b) "VESSEL" DOES NOT INCLUDE:

7 (I) ANY single-chambered air-inflated devices THAT ARE NOT
8 STAND-UP PADDLEBOARDS; or

9 (II) Seaplanes.

10 **SECTION 13.** In Colorado Revised Statutes, 33-32-107, **add**
11 (2)(b.5) as follows:

12 **33-32-107. River outfitters - prohibited operations - penalties.**

13 (2) It is unlawful for any river outfitter, guide, trip leader, or guide
14 instructor to:

15 (b.5) ALLOW ANOTHER PERSON TO OPERATE A VESSEL WITHOUT
16 DUE REGARD FOR RIVER CONDITIONS OR OTHER ATTENDING
17 CIRCUMSTANCES OR IN SUCH A MANNER AS TO ENDANGER ANY PERSON,
18 PROPERTY, OR WILDLIFE. A PERSON WHO VIOLATES THIS SUBSECTION
19 (2)(b.5) COMMITS A CLASS 3 MISDEMEANOR AND, UPON CONVICTION
20 THEREOF, SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501.

21 **SECTION 14.** In Colorado Revised Statutes, **amend** 24-72.1-106
22 as follows:

23 **24-72.1-106. Applicability.** (1) This ~~article shall~~ ARTICLE 72.1
24 DOES not apply to:

25 (a) A person reporting a crime;

26 (b) A public entity or official accepting a crime report, conducting
27 a criminal investigation, accepting an application for the provision of

1 services or providing services to infants and children born in the United
2 States pursuant to 42 U.S.C. sec. 1786, or providing emergency medical
3 service;

4 (c) A peace officer in the performance of the officer's duties and
5 within the scope of the officer's employment if ~~such~~ THE officer complies
6 with section 24-72.1-105 (2);

7 (d) A PERSON ISSUING A HUNTING OR FISHING LICENSE PURSUANT
8 TO ARTICLE 4 OF TITLE 33; or

9 (e) Instances when a federal law mandates acceptance of a
10 document.

11 **SECTION 15. Applicability.** This act applies to offenses
12 committed and other conduct occurring on or after the effective date of
13 this act.

14 **SECTION 16. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, or safety.