

PROPOSED REGULATION OF THE BOARD OF WILDLIFE**COMMISSIONERS****LCB File No. R022-19**

July 24, 2019

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

AUTHORITY: §§1-7 and 9, NRS 501.105, 501.181, 502.160 and 502.250 and section 1 of Assembly Bill No. 404, chapter 428, Statutes of Nevada 2019, at page 2657; §8, 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 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:

Assembly Bill No. 404 of the 80th Legislative Session authorizes the Board of Wildlife Commissioners to establish a program whereby a hunter who has obtained a tag to hunt certain wildlife may transfer or defer the use of his or her tag in the event of an extenuating circumstance. (Section 1 of Assembly Bill No. 404, chapter 428, Statutes of Nevada 2019, at page 2657) **Section 2** of this regulation clarifies that an outbreak of disease or a natural disaster does not constitute an extenuating circumstance under which the holder of a tag may transfer or defer the use of his or her tag. **Section 3** of this regulation sets forth the extenuating circumstances and evidence required for the holder of a tag to transfer or defer the use of his or her tag. **Section 6** of this regulation provides that if the holder of a tag transfers his or her tag to another person, the holder loses all of his or her bonus points for that species or category of species. **Sections 4, 5 and 7** 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 8** 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 or if the holder incurs any other

circumstance that the Commission and the Department determine qualifies the holder for a refund.

Section 1. Chapter 502 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *For the purposes of section 1 of Assembly Bill No. 404, chapter 428, Statutes of Nevada 2019, at page 2657, and section 3 of this regulation, an “extenuating circumstance” does not include an outbreak of disease or a natural disaster.*

Sec. 3. 1. *In accordance with the requirements of this section, the holder of a tag who incurs an extenuating circumstance provided in subsection 2 may:*

(a) Transfer the tag to another person who is otherwise eligible to hunt a big game mammal in this State; or

(b) Defer the use of the tag for an identical privilege in the same management unit and weapon class to the next applicable hunting season.

2. *Except as otherwise provided in subsection 4, the Department shall allow the holder of a tag to transfer or defer a tag pursuant to subsection 1 if any of the following extenuating circumstances occur:*

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

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

(c) The holder 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;

(d) The holder is the recipient of a dream tag issued pursuant to NRS 502.219 and returns the drawn tag to the Department pursuant to NAC 502.42695; or

(e) Any other extenuating circumstance that the Commission and the Department determine qualifies the holder to transfer or defer his or her tag.

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

4. 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.

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

6. As used in this section, “family member” has the meaning ascribed to it in section 1 of Assembly Bill No. 404, chapter 428, Statutes of Nevada 2019, at page 2657.

Sec. 4. NAC 502.336 is hereby amended to read as follows:

502.336 1. ~~[A]~~ *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 defers the use of the tag pursuant to section 3 of this regulation.

Sec. 5. 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 ~~§~~ *and section 3 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. 6. 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 3 of this regulation, the applicant loses all of his or her bonus points for that species or category of species.*

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

~~7.~~ 8. As used in this section, “management hunt” means a hunt established to seek the harvest of additional wildlife within a population.

Sec. 7. NAC 502.421 is hereby amended to read as follows:

502.421 1. The Department shall cause the computer to generate an alternate list for tags after the drawing for a hunt is completed. An alternate list must consist solely of each applicant who indicated on his or her electronic application for a tag pursuant to NAC 502.4175 a desire to be placed on the list. Even if the first person selected for an alternate list has the same drawing number as the last person selected to receive a tag in the drawing, the Department shall accept those selections as final.

2. If the return of tags pursuant to NAC 502.422 or 502.42695 *or the deferral of tags pursuant to section 3 of this regulation* reduces the number of tags awarded for an area and season to less than the quota for that area and season, the Department shall refill the quota by awarding tags from the alternate list, unless there are fewer than 14 business days remaining until the opening day for that season.

3. Except as otherwise provided in subsection 4, in awarding tags from an alternate list for a hunt, the Department shall issue the tag to the eligible applicant appearing on the list who:

(a) Has the drawing number with the highest priority; and

(b) Indicated as the applicant's first choice the area and season for which the quota is being filled.

4. If the Department is unable to collect any fee that is required to be submitted with an application for a hunting license or tag because the method of payment is rejected during the processing of the fee for the license or tag, the Department shall, if more than 14 business days remain until the opening day for the hunt, select an eligible applicant from the alternate list for the hunt and season who:

(a) Has the drawing number with the highest priority; and

(b) Has indicated as his or her first choice the area and season for which the quota is being filled.

5. Eligible applicants will be displayed on the alternate list as individual persons even though they applied for tags as a party in the draw. The order in which such persons are displayed on the alternate list is random and final.

6. The Department shall maintain a record of each applicant selected from an alternate list pursuant to this section.

7. As used in this section, "drawing number" means a number assigned by the computer to an application to denote the priority it will receive in a drawing.

Sec. 8. 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 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 ~~[]~~; *or*

(e) Incurs any other circumstances that the Commission and the Department determine qualifies the holder for a refund,

↪ 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.

Sec. 9. This regulation becomes effective on January 1, 2020, or upon filing with the Secretary of State, whichever occurs later.