

# PROPOSED RULEMAKING

## GAME COMMISSION

[58 PA. CODE CHS. 139 AND 141]

### Seasons and Bag Limits; Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its July 14, 1998, meeting, proposed amendments to read as set forth in Annex A.

Amend § 139.4 (relating to seasons and bag limits for the license year) by removing the pound sign (#), footnote and language that is applicable to the Spring Turkey hunting season and bag limit. This change will keep the season limit for turkey during the Spring Gobbler Season of May 1, 1999 to May 29, 1999 as 1.

Amend § 141.43 (relating to deer) to require archers to wear or display fluorescent orange-colored material only during the time when the dates of the fall turkey hunting season and the fall archery season run concurrent.

These proposed amendments will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for this proposal is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

These proposals were made public at the July 14, 1998, meeting of the Commission, and comments on these proposals may be sent to the Executive Director of the Pennsylvania Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until September 30, 1998.

#### *Proposed Amendment of § 139.4*

##### 1. Introduction

When it adopted the hunting and furtaking seasons and bag limits for 1998—1999 at its April 21, 1998, meeting, the Commission included some language providing for a two bird limit during the spring turkey season contingent upon Legislative approval of a spring turkey license or stamp. This adoption has caused great confusion and opposition. As a result, the Commission at its July 14, 1998, meeting, proposed removing the contingency language. This change is proposed under sections 322(c)(1) and 2102(b)(1) of the code (relating to powers and duties of the Commission; and regulations).

##### 2. Purposes and Authority

The contingency provision contained in the spring turkey season bag limit created a great deal of confusion and opposition. It links two issues which, on hindsight, should not be linked, namely, a spring turkey license or stamp and the taking of two turkeys in the spring. Removal of the contingent language will remove this link. The Commission will continue to pursue both issues separately.

Section 322 of the code specifically empowers the Commission to "... fix seasons ... and daily, season and possession limits for any species of game or wildlife." Section 2102(b) of the code mandates that the Commission promulgate regulations relating to seasons and bag limits.

##### 3. Regulatory Requirements

The proposed change would limit the spring season turkey bag limit to one turkey with no contingency.

##### 4. Persons Affected

Hunters wishing to hunt turkeys in the Spring 1999 season would be affected by the change.

*Proposed Amendment to § 141.43*

##### 5. Effective Dates

The effective dates are July 1, 1998 to June 30, 1999.

##### 1. Introduction

In order to better provide for the safety of hunters in the field while minimizing impact on hunting effectiveness, the Commission at its July 14, 1998, meeting proposed changing § 141.43 to require archery deer hunters to wear fluorescent orange-colored material during the period their season overlaps the fall turkey season rather than the general small game season. This change is proposed under the authority contained in section 2102(a) of the code.

##### 2. Purpose and Authority

At its April 21, 1998, meeting, the Commission extended the general small game season to coincide with the start of the early small game season. Since § 141.43 currently requires archery deer hunters to wear fluorescent orange during the period that their season overlaps the general small game season, this meant an increase in the fluorescent orange requirement and some reduced effectiveness. The proposed changes will reduce the requirement accordingly.

Section 2102(a) of the code directs the Commission to "... promulgate such regulations as it deems necessary and appropriate concerning ... the ways, manner, methods, and means of hunting or furtaking and the health and safety of persons who hunt or take wildlife ..." This provision provides the authority for the proposed changes.

##### 3. Regulatory Requirements

The proposed changes will relax an existing requirement.

##### 4. Persons Affected

Archery deer hunters hunting during the fall turkey season will be affected by the proposed changes.

##### 5. Effective Date

This proposed change will be effective on final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

##### *Cost and Paperwork Requirements*

The proposed change would not add any additional cost or paperwork.

##### *Contact Person*

For further information and to comment on the proposed changes, the contact person is James R. Fagan, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 787-6526.

DONALD C. MADL,  
*Executive Director*

**Fiscal Note:** 48-104. No fiscal impact; (8) recommends adoption.

Annex A  
**TITLE 58. RECREATION**  
**PART III. GAME COMMISSION**  
**CHAPTER 139. SEASONS AND BAG LIMITS**

**§ 139.4. Seasons and bag limits for the license year.**

**1998—1999 OPEN HUNTING AND FURTAKING SEASONS, DAILY LIMIT,  
 FIELD POSSESSION LIMIT AND SEASON LIMIT  
 OPEN SEASON INCLUDES FIRST AND LAST DATES LISTED**

<i>Species</i>	* * * *	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Turkey—Male or Female	* * * *				
Turkey (Spring Gobbler) Statewide Bearded Bird only	* * * *	May 1, 1999	May 29, 1999	1	1 [ # ]

**[ #—Contingent upon Legislative approval of a Spring Turkey license or stamp, one bearded turkey may be taken between May 1, and May 15, 1999, while a second bearded turkey may be taken only between May 17, and May 29, 1999. If the spring turkey license or stamp is not authorized, the season limit for the 1999 Spring Turkey Season will remain at one bearded turkey. ]**

**CHAPTER 141. HUNTING AND TRAPPING**  
**Subchapter C. BIG GAME**

**§ 141.43. Deer.**

(a) *Archery season.* It is unlawful while hunting deer with a bow and arrow during the archery season to:

\* \* \* \*

(3) Move about or relocate during that portion of the archery deer season that is concurrent with the **[ general small game ] fall turkey** season without wearing a minimum of 250 square inches of daylight fluorescent orange-colored material. The material shall be worn on the head, chest and back combined so it is visible in a 360° arc.

(4) Be on stand and stationary during that portion of the archery deer season that is concurrent with the **[ general small game ] fall turkey** season without placing a band containing a minimum of 100 square inches of daylight fluorescent orange-colored material, in lieu of the required 250 square inches, within 15 feet of their location so it is visible in a 360° arc.

\* \* \* \*

[Pa.B. Doc. No. 98-1275. Filed for public inspection August 7, 1998, 9:00 a.m.]

# INSURANCE DEPARTMENT

[31 PA. CODE CH. 121]

## Fees for Out-Of-State Companies

The Insurance Department (Department) proposes to delete Chapter 121 (relating to fees for out-of-State companies) to read as set forth in Annex A, under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412) and section 212 of The Insurance Department Act of

1921 (40 P. S. § 50). The chapter was previously promulgated under section 212 of The Insurance Department Act of 1921 (40 P. S. § 50).

*Purpose*

The purpose of the proposed deletion of Chapter 121 is to eliminate a redundant and outdated regulations. Adopted in 1969, the chapter was prescribed to notify insurers domiciled in the Commonwealth of Massachusetts or the State of California of their filing fee responsibilities when making form and rate filings with the Department.

The chapter provides that when an insurer domiciled in California makes a form or rate filing with the Department, the filing transmittal letter is required to state the fee that the state of California would charge for a similar filing. When the form or rate is approved, the California domiciled insurer is to be billed by the Department for the stated filing fee. With respect to an insurer domiciled in Massachusetts, when an insurer makes a form or rate filing with the Department, the insurer is instructed by the regulation to include with the filing the fee that the Commonwealth of Massachusetts would charge for a similar filing.

In practice, insurers domiciled in California have been including filing fee checks with all form and rate filings made with the Department. Therefore, the Department no longer bills insurers as provided by Chapter 121.

In addition to the fact that the regulation is no longer consistent with current filing fee payment practices by California domiciled insurers, the regulation is unnecessary and duplicative for both California and Massachusetts domiciled insurers. Section 212 of The Insurance Department Act of 1921 provides that if fees are imposed by a state on Commonwealth domiciled insurance companies doing business in that state, then like fees, including form and rate filing fees, shall be imposed on insurance companies domiciled in that state doing business in this Commonwealth. Therefore, because insurers domiciled in California or Massachusetts are required by section 212 to pay a form and rate filing fee to the Department as a retaliatory fee if the fees charged by those states for

Commonwealth companies exceed the fees charged by the Commonwealth for companies from those other states, Chapter 121 is duplicative and unnecessary for the collection of form and rate filing fees.

*Affected Parties*

The proposed deletion of this regulation will apply to insurers domiciled in California or Massachusetts and making form and rate filings with the Department but will not substantially affect these insurers because they must continue to comply with section 212 of The Insurance Department Act of 1921.

*Fiscal Impact*

The deletion of these sections will have no fiscal impact on State government, the general public, political subdivisions or the private sector because the deletion of the filing fee requirements does not represent a change from current policy.

*Paperwork*

The adoption of this proposed rulemaking will not impose additional paperwork on the Department and the insurance industry because the deletion does not represent a change from current policy.

*Effectiveness/Sunset Date*

The proposed rulemaking will become effective upon final adoption and publication in the *Pennsylvania Bulletin* as final rulemaking. No sunset date has been assigned.

*Contact Person*

Questions or comments concerning this proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, 1326 Strawberry Square, Harrisburg, PA 17120, within 30 days of the publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 27, 1998, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee. In addition to the submitted proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of that material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by that portion. The Regulatory Review Act specifies detailed procedures for the Depart-

ment, the Governor and the General Assembly to review these objections before final publication of the proposal.

M. DIANE KOKEN,  
*Insurance Commissioner*

**Fiscal Note:** 11-172. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 31. INSURANCE**

**PART VIII. MISCELLANEOUS PROVISIONS**

**CHAPTER 121. [ FEES FOR OUT-OF-STATE COMPANIES ] (Reserved)**

**§ 121.1. [ Applicability ] (Reserved).**

**[ The provisions of §§ 121.2 and 121.3 (relating to fee in home state; and company billed for fee) shall apply to insurance companies domiciled in California and doing business in this Commonwealth. The provisions of § 121.4 (relating to Massachusetts domiciled insurers) shall apply to insurance companies domiciled in Massachusetts and doing business in this Commonwealth. ]**

**§ 121.2. [ Fee in home state ] (Reserved).**

**[ When an insurance company specified in § 121.1 (relating to applicability) submits documents to the Insurance Department, the transmittal letter shall state the appropriate fee in its home state as of the date that the document, form, schedule of rates, classification of risks or insert page is filed in this Commonwealth. ]**

**§ 121.3. [ Company billed for fee ] (Reserved).**

**[ When an individual document has been approved by the Insurance Department, the company submitting the document will be billed for the appropriate fee. ]**

**§ 121.4. [ Massachusetts domiciled insurers ] (Reserved).**

**[ Insurers domiciled in Massachusetts and doing business in this Commonwealth, in submitting or resubmitting to the Insurance Department a policy form, including endorsements, applications and riders filed therewith, and a certificate, endorsement, application or rider filed separate from a policy form, whether subsequently approved or disapproved, shall accompany is transmittal letter with a check payable to the Pennsylvania Insurance Department in the amount of the current Massachusetts filing fee for an accompanying form as of the date of the transmittal letter. ]**

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