

SUBCHAPTER D
PROTECTION OF GAME OR WILDLIFE

Sec.

- 2161. Commonwealth actions for damage to game or wildlife.
- 2162. Disturbance of game or wildlife.
- 2163. Unlawful importation of game or wildlife.
- 2164. Unlawful taking and possession of protected birds.
- 2165. Possession or interference with active nests or eggs of birds.
- 2166. Unlawful sale of protected birds and plumage.
- 2167. Endangered or threatened species.

§ 2161. Commonwealth actions for damage to game or wildlife.

(a) Declaration of policy.--The Commonwealth has sufficient interest in game or wildlife living in a free state to give it standing, through its authorized agents, to recover compensatory and punitive damages in a civil action against any person who kills any game or wildlife or who damages any game or wildlife habitat. The proprietary ownership, jurisdiction and control of game or wildlife living free in nature is vested in the Commonwealth by virtue of the continued expenditure of its funds and its efforts to protect, propagate, manage and preserve the game or wildlife population as a renewable natural resource of this Commonwealth.

(b) General rule.--The commission, as the agency of the Commonwealth authorized to regulate, protect, propagate, manage and preserve game or wildlife, may, in addition to the penalties provided in this title, bring civil actions on behalf of the Commonwealth for compensatory and punitive damages for any game or wildlife killed or any game or wildlife habitat injured or destroyed. In determining the value of game or wildlife killed or habitat injured or destroyed, the commission may consider all factors that give value to the game or wildlife or habitat. These factors may include, but need not be limited to, the commercial resale value, the replacement costs or the recreational value of observing, hunting or furtaking. In addition, the commission may recover the costs of gathering the evidence, including expert testimony, in any civil action brought under this section where the defendant is found liable for damages.

(c) Concurrent authority.--The commission shall have concurrent authority to enforce the act of November 26, 1978 (P.L.1375, No.325), known as the Dam Safety and Encroachments Act, and the regulations thereto, with respect to encroachments and water obstructions only if a violation would, in the opinion of the commission, negatively impact upon a swamp, marsh or wetland. Notwithstanding the provisions of section 26, in the event the commission shall bring a civil action suit pursuant to section 21 or a criminal proceeding pursuant to section 22 of the Dam Safety and Encroachments Act, any moneys recovered by the commission shall be deposited in the Game Fund instead of the Dams and Encroachments Fund.

(d) Exemptions.--Nothing in this section shall be construed to include normal or accepted practices which have been conducted within guidelines set forth by the State or Federal agency having jurisdiction over such actions or any activities arising from lawful activity by other land uses, including farming, mining, oil and gas drilling, habitat management practices, forestry practices, recreation or real estate development.