

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 33. PARKS AND WILDLIFE
WILDLIFE
ARTICLE 1. WILDLIFE - GENERAL PROVISIONS

C.R.S. 33-1-102 (2013)

33-1-102. Definitions

As used in this title, unless the context otherwise requires:

(1) "Antler point" means a projection of an antler that is at least one inch long and longer than the width of the base of such projection.

(1.5) "Bag limit" means the maximum amount, expressed in numbers, of wildlife that may be lawfully taken, caught, killed, or possessed by a person during one day or other specified period of time.

(2) "Big game" means elk, white-tailed deer, mule deer, moose, rocky **mountain** bighorn sheep, desert bighorn sheep, rocky **mountain** goat, pronghorn antelope, black bear, **mountain lion**, and all species of large mammals that may be introduced or transplanted into this state for hunting or are classified as big game by the commission.

(2.5) Repealed.

(3) "Carcass" means the dead body of any wildlife or a portion thereof.

(4) "Carcass tag" or "tag" means that portion of the license or separate identification which is required by statute or by rule or regulation of the commission to be attached to a wildlife carcass as evidence of lawful possession.

(4.3) "Colorado wildlife officer" means an employee of the division of parks and wildlife, or any other person who is commissioned by the director to enforce the wildlife statutes and rules of the commission and all laws of the state of Colorado, who is recognized as a peace officer in [section 16-2.5-116, C.R.S.](#)

(4.5) "Commercial wildlife park" means a privately owned wildlife park, containing lawfully acquired captive wildlife, on which wildlife are exhibited for educational, commercial, or promotional purposes.

(5) "Commission" or "parks and wildlife commission" means the parks and wildlife commission created in [section 33-9-101](#).

(6) "Commissioner" means a member of the parks and wildlife commission.

(6.4) "Computer-assisted remote hunting" means the use of a computer or any other device, equipment, or software to remotely control the aiming and discharge of a weapon, including, but not limited to, firearms or archery equipment, at wildlife while the person engaged in the action is not physically present with, or in the immediate vicinity of, the wildlife.

(6.5) "Computer-assisted remote hunting facilities" means real property and improvements on the property associated with computer-assisted remote hunting. "Computer-assisted remote hunting facilities" also includes, but is not limited to, hunting blinds, weapons, offices, and rooms, equipped to facilitate computer-assisted remote

hunting.

(7) "Department" means the department of natural resources.

(8) "Director" means the director of the division of parks and wildlife.

(9) (Deleted by amendment, L. 2003, p. 1629, § 64, effective August 6, 2003.)

(10) "Division" means the division of parks and wildlife and its employees, and, when necessary, the term may be construed as referring to the parks and wildlife commission.

(11) "Ecosystem" means a system of living organisms and their environment, each influencing the existence of the other and both necessary for the maintenance of life.

(12) "Endangered species" means any species or subspecies of native wildlife whose prospects for survival or recruitment within this state are in jeopardy as determined by the commission.

(13) "Executive director" means the executive director of the department of natural resources.

(13.5) "Exotic aquatic species" means those species, subspecies, and hybrids of fish, mollusks, crustaceans, aquatic reptiles, and aquatic amphibians not originating naturally, either presently or historically, in Colorado and not currently found in the drainage in question, except those which have been classified as native wildlife by the commission.

(14) "Export" means to transport any wildlife, or part of wildlife, out of this state.

(15) "Falconry" means the sport of hunting or taking quarry with a trained raptor.

(16) "Fishing" means any effort made to take any fish, amphibian, crustacean, or mollusk.

(17) "Furbearers" means those species with fur having commercial value and which provide opportunities for sport harvest, including badger, gray fox, kit fox, swift fox, opossum, hognosed skunk, spotted skunk, striped skunk, beaver, marten, mink, muskrat, ringtail, long-tailed weasel, short-tailed weasel, coyote, bobcat, red fox, and raccoon and all species of furbearers that may be introduced or transplanted into this state for commercial fur value and are classified as furbearers by the commission.

(18) "Game amphibian" means those species or subspecies of the class Amphibia classified as game amphibians by the commission.

(19) "Game crustacean" means those species or subspecies of the class Crustacea classified as game crustaceans by the commission.

(20) "Game fish" means all species of fish which currently exist or may be introduced or transplanted into this state for sport or profit and which are classified as game fish by the commission.

(21) "Game management unit" means a geographic area designated by the commission for the management of wildlife.

(22) "Game mollusk" means those species or subspecies of the phylum Mollusca classified as game mollusks by the commission.

(23) "Game wildlife" means those wildlife species which may be lawfully hunted or taken for food, sport, or profit and which are classified as game wildlife by the commission.

(24) "Harass" means to unlawfully endanger, worry, impede, annoy, pursue, disturb, molest, rally, concentrate, harry, chase, drive, herd, or torment wildlife.

(25) "Hours" means the designated period of the day or night when wildlife may be hunted or taken lawfully.

(25.5) "Hunt" means to pursue, attract, stalk, lie in wait for, or attempt to shoot, wound, kill, trap, capture, collect, or take wildlife. "Hunt" does not include stalking, attracting, searching, or lying in wait for wildlife by an unarmed person solely for the purpose of watching or taking photographs of wildlife.

(26) "Import" means to bring or introduce into or to attempt to bring or introduce into this state any native or nonnative or exotic wildlife.

(27) "License" means a permit, stamp, card, certificate, tag, seal, or other document provided for by statute or commission rule or regulation and issued or required by the division authorizing the hunting, fishing, trapping, taking, transportation, or possession of wildlife or other activity for which express authorization is required by articles 1 to 6 of this title.

(27.5) "Low-income senior" refers to an individual sixty-four years of age or older who shows proof of such fact to the division or license agent and who shows proof to the division or license agent in the form of a federal or state income tax return from the immediately preceding calendar year that the federal taxable income of any such individual is at or below one hundred percent of the official poverty line for an individual or a family, as appropriate to the applicant, defined by the federal office of management and budget based on federal bureau of the census data. If said tax return is not available, a return for the year immediately preceding such year shall suffice. The division shall, for purposes of this subsection (27.5), inform license agents of the most current official poverty line in effect. If a person's income is at a level where such person is not required to file an income tax return, such individual shall sign a statement under penalty of perjury in the second degree to such effect, which statement shall be prescribed by the division and kept as required by the division with the record of sale of any license pursuant to [section 33-4-102 \(1.4\) \(v\)](#). No such affidavit shall be required to be notarized.

(28) "Motor vehicle" means a self-propelled vehicle, or a vehicle drawn by a self-propelled vehicle, by which persons or property may be moved, carried, or transported from one place to another by land or air.

(28.5) "Native wildlife" means those species and subspecies of wildlife which have originated naturally, either presently or historically, in Colorado; those which have been introduced into the wild in Colorado by the division; and those which have been classified as native wildlife by the commission.

(29) "Nongame wildlife" means all native species and subspecies of wildlife which are not classified as game wildlife by rule or regulation of the commission.

(29.5) "Nonnative wildlife" or "exotic wildlife" means those species, subspecies, and hybrids of wildlife not originating naturally, either presently or historically, in Colorado, except those which have been introduced into the wild in Colorado by the division or classified as native wildlife by the commission.

(30) "Nonresident" means any person who is not a resident of this state.

(31) "Optimum carrying capacity" means that point at which a given habitat can support healthy populations of wildlife species, having regard to the total ecosystem, without diminishing the ability of the habitat to continue that function.

(32) "Peace officer" means a sheriff, undersheriff, deputy sheriff, police officer, Colorado state patrol officer, or town marshal; a district attorney, assistant district attorney, deputy district attorney, or special deputy district attorney; an authorized investigator of a district attorney; an agent of the Colorado bureau of investigation; a Colorado wildlife officer or special wildlife officer; or a parks and recreation officer.

(33) "Person" means any individual, association, partnership, or public or private corporation, any municipal corporation, county, city, city and county, or other political subdivision of the state, or any other public or private organization of any character.

(34) "Possession" means either actual or constructive possession of or any control over the object referred to.

(35) "Possession limit" means the maximum amount, expressed in numbers, of wildlife which may be lawfully possessed by any one person at any particular time.

(36) "Public road" means the traveled portion and the shoulders on each side of any road maintained for public travel by a county, city, or city and county, the state, or the United States government and includes all structures within the limits of the right-of-way of any such road.

(37) "Raptor" means all birds that are members of the order of Falconiformes or Strigiformes and, specifically, but not by way of limitation, means falcons, hawks, owls, and eagles or such other birds classified as raptors by the commission.

(38) (a) "Resident" means any person who has lived in this state for six consecutive months or more immediately preceding the date of application for or purchase of any license required under the provisions of articles 1 to 6 of this title or rules or regulations of the commission.

(b) The burden of establishing residence shall be on the person claiming such status at the time of application for a license. No person is entitled to claim multiple states of residence except as provided in paragraphs (c) and (d) of this subsection (38). The following evidence or any other reliable evidence may be used in establishing, but is not necessarily determinative of, residence:

(I) The residence of a person is the principal or primary home or place of abode of a person. A principal or primary home or place of abode is that home or place in which a person's habitation is fixed and to which the person, whenever absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of such absence. A residence is a permanent building or part of a building and may include a house, condominium, apartment, room in a house, or mobile home. No rental property, vacant lot, vacant house or cabin, or premises used solely for business shall be considered a residence.

(II) In determining the principal or primary place of abode, the following circumstances relating to the person may be taken into account: Business pursuits, place of employment, income sources, residence for income or other tax purposes, age, marital status, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, existence of any other residences outside of Colorado and the amount of time spent at each such residence, and any motor vehicle or vessel registration.

(II.3) The residence address given for purposes of purchasing or obtaining licenses issued under this title shall be the same as the address given for Colorado state income tax purposes.

(II.6) A person shall not be considered to have gained resident status while retaining a domicile outside this state.

(III) In determining whether the principal or primary place of abode is in Colorado, the following documents may be taken into account: A current driver's license with address, recent property tax receipts, copies of recent resident income tax returns, current voter registration cards, current motor vehicle or vessel registrations, and other public records evidencing place of abode or employment.

(c) A person who is a resident of this state does not terminate residency upon entering the armed services of the United States. A member of the armed services on active duty who resided in Colorado at the time the person entered military service and the person's dependents are presumed to retain their status as residents of Colorado throughout the member's active duty in the service, regardless of where stationed or for how long or of the factors listed in paragraph (e) of this subsection (38), unless the member changes his or her home of record to some state other than Colorado or fails to comply with the requirements established by article 22 of title 39, C.R.S., and rules promulgated by the department of revenue concerning the filing of a Colorado income tax return.

(d) For the purposes of this subsection (38), the following shall also be deemed residents of this state:

(I) Members of the armed services of the United States or any nation allied with the United States who are on active

duty in this state under permanent orders and their dependents;

(II) Personnel in the diplomatic service of any nation recognized by the United States who are assigned to duty in this state and their dependents;

(III) Full-time students who are enrolled in and have been attending any accredited trade school, college, or university in this state for at least six months immediately prior to the date of application for any license. For the purposes of this subparagraph (III), the spouse and dependent children of any such student shall also be considered residents. The temporary absence of such student or the student's spouse or dependent children from this state while the student is still enrolled at any such trade school, college, or university shall not be deemed to terminate their residency. A student shall be deemed "full-time" if considered full-time under the rules or policy of the educational institution he or she is attending.

(IV) Colorado residents who attend school full-time out of state and pay nonresident tuition unless exempted from such tuition payments by the trade school, college, or university.

(d.5) The residency status of children under eighteen years of age is presumed to be that of the parent with whom the child resides the majority of the time pursuant to court order or legal guardian.

(e) Except as provided in paragraph (c), (d), or (d.5) of this subsection (38), a person is deemed, for the purposes of this title, to have terminated his or her Colorado residence if the person applies for, purchases, or accepts a resident hunting, fishing, or trapping license issued by another state or foreign country; registers to vote in another state or foreign country; or accepts a driver's license that shows an address other than in Colorado.

(f) If a person moves to any other state or foreign country with the intention of making it the person's permanent residence, the person shall be considered to have lost his or her residence in Colorado.

(39) "Season" means the period of time during which wildlife may be legally hunted or taken.

(40) "Sell" includes bartering, exchanging, trading, or giving or offering a gift and each such transaction made by any person whether as principal proprietor, agent, servant, or employee with or without remuneration.

(41) "Small game" means: Game birds, including grouse, ptarmigan, pheasant, quail, partridge, wild turkey, wild ducks, wild geese, sora and Virginia rails, coot, sandhill cranes, snipe, mergansers, band-tailed pigeons, doves, and crow; game mammals, including cottontail rabbit, snowshoe hare, fox squirrel, pine squirrel, Abert's squirrel, jackrabbits, marmot, and prairie dogs; and all species of small mammals and birds that may be introduced or transplanted into this state for hunting or are classified as small game by the commission.

(42) "State wildlife area" means all lands and waters, excluding offices, warehouses, and fish hatcheries, held by the division in fee title or by lease, easement, or agreement for the benefit of wildlife populations or for wildlife-related recreation.

(43) "Take" means to acquire possession of wildlife; but such term shall not include the accidental wounding or killing of wildlife by a motor vehicle, vessel, or train.

(44) "Threatened species" means any species or subspecies of wildlife which, as determined by the commission, is not in immediate jeopardy of extinction but is vulnerable because it exists in such small numbers or is so extremely restricted throughout all or a significant portion of its range that it may become endangered.

(45) "Transfer" means to pass, deliver, convey, receive, or hand over any license issued under articles 1 to 6 of this title from one person to another or to intentionally allow such a license to come into the possession of a person other than the person for whom it was originally procured.

(46) "Transport" means to ship, carry, convey, or transfer from one place to another and includes an offer to transport and the receipt or possession for transportation.

(47) "Trap" means any mechanical device, snare, deadfall, pit, or other device used for catching wildlife.

(48) "Trapping" means taking or attempting to take wildlife by the use of a trap.

(49) "Vessel" means every description of watercraft used or capable of being used as a means of transportation of persons or property on water.

(50) "Waters of the state" means any natural streams, reservoirs, and lakes within the territorial limits of the state of Colorado.

(51) "Wildlife" means wild vertebrates, mollusks, and crustaceans, whether alive or dead, including any part, product, egg, or offspring thereof, that exist as a species in a natural wild state in their place of origin, presently or historically, except those species determined to be domestic animals by rule or regulation by the commission and the state agricultural commission. Such determination within this statute shall not affect other statutes or court decisions determining injury to persons or damage to property which depend on the classification of animals by such statute or court decision as wild or domestic animals.

(52) "Wildlife sanctuary" means a place of refuge where a nonprofit entity, as defined in [section 7-90-102 \(40\), C.R.S.](#), provides care for abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced wildlife for their lifetime and, with respect to any wildlife owned by such entity, does not:

(a) Use the animal for any type of entertainment;

(b) Sell, trade, or barter the animal or the animal's body parts, except as authorized by rule promulgated by the commission; or

(c) Breed the animal.

HISTORY: Source: L. 84: Entire article R&RE, p. 849, § 1, effective January 1, 1985.L. 90: (26) and (51) amended and (28.5) and (29.5) added, p. 1527, § 1, effective July 1.L. 91: (13.5) added, p. 196, § 2, effective June 7.L. 93: (27.5) added, p. 430, § 1, effective April 19.L. 94: (4), (23), (25), (27), (38), (39), (43), and (45) amended and (4.5) and (25.5) added, p. 1574, § 1, effective May 31.L. 96: (40) amended, p. 1844, § 14, effective July 1.L. 98: (38)(d.5) amended, p. 1415, § 84, effective February 1, 1999.L. 2003: (1), (2), (28), and (38)(e) amended and (1.5) added, p. 1030, § 6, effective July 1; (4.3) added and (9) and (32) amended, p. 1629, § 64, effective August 6; (4.3) amended, p. 1955, § 52, effective August 6.L. 2004: (52) added, p. 1323, § 1, effective August 4.L. 2007: (38)(c) and (38)(e) amended, p. 585, § 1, effective April 19.L. 2008: (6.4) and (6.5) added, p. 282, § 1, effective August 5.L. 2011: (2.5) added and (5), (8), and (10) amended, [\(SB 11-208\), ch. 293, p. 1383, § 6](#), effective July 1.L. 2012: (2.5) repealed and (4.3), (5), (6), and (10) amended, [\(HB 12-1317\), ch. 248, p. 1207, § 15](#), effective June 4.

Editor's note: This section is similar to former § 33-1-102 as it existed prior to 1984.

ANNOTATION

There was ample evidence to support the trial court's finding that defendant's animals were "nonnative wildlife" or "exotic wildlife" and were subject to the rules of the division of wildlife. The determination of the trial court regarding the red deer, Barbary sheep, ibex goats, and hybrids thereof owned by the defendants will not be disturbed on review. *Colo. Div. of Wildlife v. Cox*, 843 P.2d 662 (Colo. App. 1992).