



South Dakota Legislative Research Council

Issue Memorandum 95-18

PRIVATE SHOOTING PRESERVES

It was in 1963 that legislation was passed authorizing the Game, Fish and Parks Commission to issue private shooting preserve permits. For over twenty years that statute, which is codified at SDCL 41-10, was a little used law. In the last decade, however, the number of preserves has increased significantly and as a result a number of concerns regarding these preserves have arisen. This memorandum will supply background information about shooting preserves, address some of the major provisions regarding shooting preserves, and identify some of the current issues involving these preserves.

Background

Shooting Preserves and Fee Hunting

A shooting preserve is defined by law as an acreage, either privately owned or leased, on which pen-raised game is released for the purpose of hunting, for a fee, over an extended season. These preserves offer a hunting experience to those persons who want a quality hunt and are willing to pay for it. Most preserves offer package style hunts including lodging, meals, field transportation, processing and packaging of the birds harvested. Within limits set by the commission, a preserve may establish its own shooting hours, bag limits, and fees to be charged its guests.

A shooting preserve must obtain a permit to operate from the Game, Fish & Parks (GF&P) Commission. Under legislation passed by the 1995 Legislature, any application for a new shooting preserve operating permit must have a public hearing and notice of that public hearing

must be published in at least three newspapers in areas of the state likely to be affected by the proposed permit. Once a permit is issued, the preserve must meet regulations regarding the releasing of marked birds, the tagging of bagged birds, and maintaining a record of all hunters who used the preserve with the days they hunted and a record of all game released and game taken. Operating a preserve without a permit or any violation of any statute, rule, or condition of a permit by a permit holder is a Class 1 misdemeanor.

A shooting preserve should not be confused with fee hunting. A farmer may charge a hunter to hunt on the farmer's land and the farmer may even release pen-raised pheasants, but as long as the hunting takes place during the regular pheasant season and that season's bag limits and shooting hours are observed, such an arrangement does not constitute a shooting preserve.

Increasing Number of Preserves

For nearly two decades after the initial passage of legislation allowing shooting preserves, hardly any existed in the state. For the first seventeen years the most preserves in any one year were two, and that happened on only three occasions. In eight of those years, there were no shooting preserves. Then in the middle 1980s when many economic hardships faced farmers and ranchers and when about two million of acres of land, many acres ideally suited for game habitat, began to be taken out of production by the federal Conservation Reserve Program (CRP), the number of shooting preserves increased rapidly. Many farmers and ranchers

took the opportunity to diversify the use of their agricultural land by using some of this CRP land to start preserves. The following chart shows how the number of shooting preserves has grown and it also shows that not all attempts to establish preserves have been a success, as many permits were not renewed.

Shooting Preserves				
Year	Not Renewed	Renewed	New	Total
1981-82	0	2	1	3
1982-83	0	3	1	4
1983-84	0	4	6	10
1984-85	3	7	6	13
1985-86	2	11	15	26
1986-87	5	21	27	48
1987-88	7	41	21	62
1988-89	12	50	24	74
1989-90	17	57	23	80
1990-91	13	67	19	86
1991-92	20	66	9	75
1992-93	5	70	14	84
1993-94	4	79	16	95
1994-95	9	86	10	96
1995-96	10	86	21	107

Not only has the number of these preserves increased, but they have also concentrated in a handful of counties. In 1995-96, of the one hundred seven preserves, twenty-two preserves will be in Gregory County, seven will be in each of the counties of Lyman and Brule, six in each

of the counties of Aurora and Hand, and four in each of the counties of Sully and Tripp. The remaining fifty-one preserves are spread over thirty-one counties.

Major Provisions Regarding Shooting Preserves

Acreage Limits

Preserves are restricted by statute to a maximum acreage of one thousand two hundred eighty acres. The land within a preserve must be contiguous. By administrative rule, all preserves must be at least one hundred sixty acres. For the 1995-96 season, a total of 70,764 acres will be in shooting preserves. The average size of a preserve will be 661 acres.

Length of Season

The law allows a seven-month hunting season from September 1 to March 31 on permitted preserves. This is comparable to seasons allowed on hunting preserves in neighboring states. Each preserve is allowed to establish its own hunting seasons within this seven-month period.

Eligible Species

The game that may be hunted on a shooting preserve is limited by law to pheasants, quail, partridges, turkey, mallard ducks, and such other species of game as the GF&P Commission may add. The law also allows the commission to exclude mallard ducks from the list of permitted species if the commission deems it necessary to protect them, and the commission has chosen to do so since 1963. For the 1994-95 shooting preserve season, ninety preserves hunted pheasants, nine preserves hunted chukar partridge, four hunted gray partridge; only one preserve hunted bobwhite quail, and three preserves hunted turkey.

Operator requirements and permit fee

By law an applicant to operate a shooting preserve must be a resident of the state. An applicant cannot operate or own an interest in more than two shooting preserves. The commission must find that the applicant is financially able to provide the necessary facilities and services to operate a shooting preserve and that the preserve will be open to the general public. For the 1995-96 season there will be eighteen operators who have interest in two preserves. Prior to 1986 there were no restrictions regarding residency or the number of preserves per applicant.

The fee for a shooting preserve operating permit is one hundred dollars per shooting preserve season plus forty cents for each acre within the boundary of the preserve. Consequently, the minimum fee for a permit is \$164 and the maximum fee is \$612.

Hunter License Fees

A South Dakota resident basic game and fish license (\$5) and a resident shooting preserve stamp (\$10) are needed for a resident to hunt on a shooting preserve. This license and stamp allow hunting on all shooting preserves. In 1993-94, only twenty-nine of these stamps were issued. A resident can also hunt on a preserve if the resident has a sportsman's license (\$30) or the basic game and fish license (\$5), a small game stamp (\$6), and a wildlife habitat stamp (\$8). These licenses and stamps also allow the resident to hunt off the preserve. Over 1,700 resident hunters used these latter methods of licensing to hunt on preserves in 1993-94.

A nonresident shooting preserve license (\$20) is needed for a nonresident to hunt on a shooting preserve. This license is good only on shooting preserves for the calendar year. A nonresident can also hunt on a preserve with a nonresident small game license (\$65). This license is valid on shooting preserves for the calendar year and

valid off the preserve during two five-day periods selected by the hunter. In 1993-94, 2,927 non-resident shooting preserve licenses were issued and just over 1,500 nonresident small game licenses were used to hunt on preserves. Just over seventy percent of shooting preserve hunters have been nonresidents.

Distance Between Preserves

A distance of one mile is required between shooting preserves. This distance, which is set by statute, was initially set at five miles and stayed at that distance until 1986 when it was changed to three miles. The distance was reduced from three miles to one mile in 1989. At first this restriction was not much of a limiting factor on the number of preserves, but that has changed with the increased number of preserves and the concentration of the preserves in those counties along the Missouri River. For instance, in Gregory county in 1995-96, there will be twenty-two preserves covering 12,255 acres or just under two percent of the total acres in the county. Consequently, a substantial portion of Gregory cannot become a shooting preserve because of this one-mile limit.

Distance From Public Shooting Areas

In 1986, a provision was added to the law to require that private shooting preserves be at least one mile from any game production area or other publicly owned shooting area. A publicly owned shooting area is further defined in administrative rules as including all land owned or controlled by the U.S. Fish and Wildlife Service; holdings of the U.S. Bureau of Land Management, U.S. Forest Service, and U.S. Corps of Engineers which are designated as wildlife areas; and meandered lakes. This restriction was passed so that no shooting preserve could take advantage of a wild bird population on an adjacent public shooting area. However, any existing preserve in 1986 which was within a mile of such a public shooting area

was grandfathered in.

In 1991, the commission was given the authority to approve preserves within this one-mile limit if the commission determined the preserve would not take unfair advantage of wildlife habitat development or wildlife populations existing on those areas. In the 1995-96 season, eleven preserves will be within this one-mile limit. Five of these preserves were grandfathered in by the 1986 legislation, and six preserves have been approved by the commission.

Minimum Release Requirements and Harvest Limitations

A preserve must release a minimum of two hundred pheasants during the course of the shooting preserve season if pheasants are to be hunted. There is no minimum for the other species, but a preserve may not allow the number of wild and released birds harvested to exceed eighty percent of the number of birds which have been released. Therefore, if eight turkeys are harvested, at least ten turkeys must have been released on the preserve and if eight hundred pheasants are harvested at least one thousand must have been released. All released birds must be marked by either by a toe clipping or by a permanent easily identifiable mark left by an anti-pecking device.

End-of-the-year reports showed that in the 1994-95 season 91,451 pheasants were released on shooting preserves and 56,885 pheasants were harvested. Of these pheasants shot, 11,243 (20%) were wild birds and 45,642 (80%) were released birds. For the other small game species, 2,116 chukar partridge were released and 972 were harvested; 320 gray partridge were released and 138 were harvested; and fifty bobwhite quail were released and just one was harvested. No wild partridge or quail were shot on a preserve. For turkey, forty-eight were released on preserves with eleven birds being harvested--two wild birds and nine released birds.

Daily Bag Limit and Shooting Hours

The daily bag limit for pheasants is a maximum of eight cocks except in the counties of Butte, Fall River, Harding, Lawrence, Meade, and Pennington, where the maximum daily limit is fifteen pheasants, including hens, outside the state pheasant season dates and a maximum of fifteen cock pheasants during the state pheasant season. The commission has allowed a more liberal bag limit including the shooting of hens in these six counties because there are very few wild pheasants taken in these counties. The maximum daily bag limit for wild turkeys has been established at two birds.

The shooting hours have been restricted to sunrise to sunset each day. Shooting preserves are free to set their own bag limits and shooting hours within these limits.

Current Issues

The distance between shooting preserves, the distance of preserves from public shooting areas, and the length of the shooting preserve season have become particular points of controversy.

The distance requirement between preserves is becoming more of an issue because of the increasing number of preserves. This past July a number of persons submitted letters and testified to the commission against issuing certain preserve permits because their land was within one mile of the land to be included in a preserve. The issuance of the preserve permit would prohibit them from operating a permit on their land in the future. Many felt this was an uncompensated taking of the use of their land. They would like to see this one-mile requirement eliminated. Hunter groups, on the other hand, may not support a change that would potentially allow for many more preserves.

The distance of shooting preserves from public shooting areas has been an issue for about the last ten years. Hunter groups feel that preserve operators try to take advantage of wild game by placing preserves close to areas publicly managed for wildlife production. The 1991 law which allows the commission to authorize preserves within one mile of a public shooting appears to be working but not without either the hunter groups or the preserve applicants being frustrated with the decisions of the commission.

The length of the shooting preserve season has been a more long-standing issue. A number of hunters do not agree with allowing hunting on preserves to begin about fifty days before the regular hunting season and to continue three months after the regular season. They feel it is not right that wild pheasants can be harvested on the preserves during these time periods while persons off the preserve cannot hunt the wild birds. While records kept by the Department of GF&P indicate that fewer than eight percent of the pheasants harvested on preserves before the regular pheasant season are wild birds and just over one percent of the pheasants harvested on preserves are harvested after the regular pheasant ends, the perception that preserves take advantage of a public resource still exists with many hunters.

The increasing number of preserves, whether hen pheasants should be hunted on preserves, the size of preserves, and the length of shooting hours on preserves are among the other areas of controversy concerning shooting preserves.

The GF&P commission has appointed a Private Shooting Preserve Task Force whose membership is made up of representatives of shooting preserve operators, hunters' groups, and GF&P commissioners and personnel to try to reach a consensus on some of these issues and to possibly recommend legislation for the 1996 Legislature. The task force is scheduled to have

its first meeting in August.

Summary

Although rare until the 1980s, the number of shooting preserves has increased dramatically during the last decade, and the rate of increase does not appear to be leveling off. This growth has led to a number of issues of controversy among landowners, hunters, and the state's wildlife managers. The task force established by the GF&P Commission will be analyzing these issues and possibly submitting legislation to the 1996 Legislature.

This issue memorandum was written by David L. Ortbahn, Principal Research Analyst for the Legislative Research Council. It is designed to supply background information on the subject and is not a policy statement made by the Legislative Research Council.

COMPARISON OF SOUTH DAKOTA PRIVATE SHOOTING PRESERVE PROVISIONS WITH SURROUNDING STATES

SUBJECT	SOUTH DAKOTA	NORTH DAKOTA	IOWA	NEBRASKA	MINNESOTA
ACREAGE LIMITS	Min: 160 acres Max: 1,280 acres	No restrictions	Min: 320 acres Max: 1,280 acres	Min: 120 acres Max: 1,280 acres	Private: 40-160 acres Commercial: 100-1,000 acres
SEASON LENGTH	Sept. 1 - March 31	Sept. 1 - March 31	Sept. 1 - March 31	Sept. 1 - March 31	Private preserves*: Sept. 16 - Dec. 31 Commercial preserves*: continuous
ELIGIBLE SPECIES	Pheasant, partridge, quail, turkey, and mallard duck	All game species	All game species	Pheasant, bobwhite, and coturnix quail, turkey, and mallard duck	Private: pheasant, bobwhite quail, and chukar partridge Commercial: same species plus mallard and black duck, and turkey
OPERATOR PERMIT FEE	\$100, plus 40 cents for each preserve acre	\$100 for 640 acres or less; over 640 acres: \$100 plus 50 cents for each additional acre	\$200	\$100	Private: \$100 Commercial: \$500
HUNTER LICENSE FEE	Resident: \$15 - 30 Non-Res: \$20 for preserves; \$65 for on or off a preserve	Resident: \$13 Non-Res: \$8 for preserves; \$83 for on or off preserve	Resident: \$17.50 Non-Res: \$10 or \$65.50	Resident: \$18.50 Non-Res: \$50	Private: Resident: \$20 Non-Res: \$61 Commercial: no license fee
DISTANCE BETWEEN PRESERVES	One mile apart	none	One per township or no more than 3% of the total acres in the county	Five miles apart and no more than 1% of the total acres in the county	Private: outside the pheasant range only. Must be in the public interest and have no effect on wild birds
DISTANCE FROM PUBLIC SHOOTING AREAS	One mile	One mile	Game birds released will not be detrimental to wildlife	None	Must be in the public interest and have no adverse effect on the wild bird population
MINIMUM RELEASE REQUIREMENTS	200 for pheasants, none for other species	100 for each species	500 birds for all species combined	500 birds for all species combined	Private: no more than 300 pheasants Commercial: at least 1,000 pheasants
% HARVEST LIMITATIONS	80%	80%	80% for pheasants and quail, 100% for other species	100%	95% for pheasants on both Private and Commercial
BAG LIMITS	Eight cock pheasants and two turkeys daily; Six western counties: 15 pheasants daily	Pen raised: None Wild birds: Same as the regular season bag limits	None	None	None

* Private preserves are the small, club or membership operations, commercial preserves are open to the public for profit.

Source: Department of GF&P