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HOUSE BILL NO. 725

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 29.1-521 and 29.1-553 of the Code of Virginia, relating to hunting with steel-jawed traps; prohibition; penalty.

Patrons—Gooditis and Plum

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 29.1-521 and 29.1-553 of the Code of Virginia are amended and reenacted as follows:

§ 29.1-521. Unlawful to hunt, trap, possess, sell, or transport wild birds and wild animals except as permitted; exception; penalty.

A. The following is unlawful:

1. To hunt or kill any wild bird or wild animal, including any nuisance species, with a gun, firearm, or other weapon, or to hunt or kill any deer or bear with a gun, firearm, or other weapon with the aid or assistance of dogs, on Sunday. The provision of this subdivision that prohibits the hunting or killing of any wild bird or wild animal, including nuisance species, on Sunday shall not apply to (i) any person who hunts or kills raccoons; (ii) any person who hunts or kills birds in the family Rallidae or waterfowl, subject to geographical limitations established by the Director and except within 200 yards of a place of worship or any accessory structure thereof; or (iii) any landowner or member of his family or any person with written permission from the landowner who hunts or kills any wild bird or wild animal, including any nuisance species, on the landowner's property, except within 200 yards of a place of worship or any accessory structure thereof. However, a person lawfully carrying a gun, firearm, or other weapon on Sunday in an area that could be used for hunting shall not be presumed to be hunting on Sunday, absent evidence to the contrary.

2. To destroy or harass the nest, eggs, dens, or young of any wild bird or wild animal, except nuisance species, at any time without a permit as required by law.

3. To hunt or attempt to kill or trap any species of wild bird or wild animal after having obtained the daily bag or season limit during such day or season. However, any properly licensed person, or a person exempt from having to obtain a license, who has obtained such daily bag or season limit while hunting may assist others who are hunting game by calling game, retrieving game, handling dogs, or conducting drives if the weapon in his possession is an unloaded firearm, a bow without a nocked arrow, an unloaded slingbow, an unloaded arrowgun, or an unloaded crossbow. Any properly licensed person, or person exempt from having to obtain a license, who has obtained such season limit prior to commencement of the hunt may assist others who are hunting game by calling game, retrieving game, handling dogs, or conducting drives, provided he does not have a firearm, bow, slingbow, arrowgun, or crossbow in his possession.

4. To knowingly occupy any baited blind or other baited place for the purpose of taking or attempting to take any wild bird or wild animal or to put out bait or salt for any wild bird or wild animal for the purpose of taking or killing it. There shall be a rebuttable presumption that a person charged with violating this subdivision knows that he is occupying a baited blind or other baited place for the purpose of taking or attempting to take any wild bird or wild animal. However, this shall not apply to baiting nuisance species of animals and birds, or to baiting traps for the purpose of taking fur-bearing animals that may be lawfully trapped.

5. To kill or capture any wild bird or wild animal adjacent to any area while a field or forest fire is in progress.

6. To shoot or attempt to take any wild bird or wild animal from an automobile or other vehicle, except (i) as provided in § 29.1-521.3 or (ii) for the killing of nuisance species as defined in § 29.1-100 on private property by the owner of such property or his designee from a stationary automobile or other stationary vehicle.

7. To set a trap of any kind on the lands or waters of another without attaching to the trap: (i) the name and address of the trapper; or (ii) an identification number issued by the Department.

8. To set a trap where it would be likely to injure persons, dogs, stock, or fowl.

9. To fail to visit all traps once each day and remove all animals caught, and immediately report to the landowner as to stock, dogs, or fowl that are caught and the date. However, the Director or his designee may authorize employees of federal, state, and local government agencies, and persons holding a valid Commercial Nuisance Animal Permit issued by the Department, to visit body-gripping traps that

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59 are completely submerged at least once every 72 hours, and the Board may adopt regulations permitting
60 trappers to visit traps less frequently under specified conditions. The Board shall adopt regulations
61 permitting trappers to use remote trap-checking technology to check traps under specified conditions.

62 10. *To trap with any size steel-jawed trap.*

63 11. To hunt, trap, take, capture, kill, attempt to take, capture, or kill, possess, deliver for
64 transportation, transport, cause to be transported, by any means whatever, receive for transportation or
65 export, or import, at any time or in any manner, any wild bird or wild animal or the carcass or any part
66 thereof, except as specifically permitted by law and only by the manner or means and within the
67 numbers stated. However, the provisions of this section shall not be construed to prohibit the (i) use or
68 transportation of legally taken turkey carcasses, or portions thereof, for the purposes of making or
69 selling turkey callers; (ii) the manufacture or sale of implements, including tools or utensils made from
70 legally harvested deer skeletal parts, including antlers; (iii) the possession of shed antlers; or (iv) the
71 possession, manufacture, or sale of other parts or implements authorized by regulations adopted by the
72 Board.

73 ~~11.~~ 12. To offer for sale, sell, offer to purchase, or purchase, at any time or in any manner, any wild
74 bird or wild animal or the carcass or any part thereof, except as specifically permitted by law, including
75 subsection D of § 29.1-553. However, any nonprofit organization exempt from taxation under
76 § 501(c)(3) of the Internal Revenue Code that is (i) organized to provide wild game as food to the
77 hungry and (ii) authorized by the Department to possess, transport, and distribute donated or unclaimed
78 meat to the hungry may pay a processing fee in order to obtain such meat. Such fee shall not exceed the
79 actual cost for processing the meat. In addition, any nonprofit organization exempt from taxation under
80 § 501(c)(3) of the Internal Revenue Code that is (a) organized to support wildlife habitat conservation
81 and (b) approved by the Department shall be allowed to offer wildlife mounts that have undergone the
82 taxidermy process for sale in conjunction with fundraising activities. A violation of this subdivision shall
83 be punishable as provided in § 29.1-553.

84 ~~12.~~ 13. To offer for sale, sell, offer to purchase, or purchase a hunt guaranteeing the killing of a
85 deer, bear, or wild turkey. Nothing in this subdivision shall prevent a landowner from leasing land for
86 hunting. A violation of this subdivision shall be punishable as provided in § 29.1-553.

87 B. Notwithstanding any other provision of this article, any American Indian who produces
88 verification that he is an enrolled member of a tribe recognized by the Commonwealth, another state, or
89 the U.S. government, may possess, offer for sale, or sell to another American Indian, or offer to
90 purchase or purchase from another American Indian, parts of legally obtained fur-bearing animals,
91 nonmigratory game birds, and game animals, except bear. Such legally obtained parts shall include
92 antlers, hooves, feathers, claws, and bones.

93 "Verification" as used in this section shall include (i) display of a valid tribal identification card, (ii)
94 confirmation through a central tribal registry, (iii) a letter from a tribal chief or council, or (iv)
95 certification from a tribal office that the person is an enrolled member of the tribe.

96 C. Notwithstanding any other provision of this chapter, the Department may authorize the use of
97 snake exclusion devices by public utilities at their transmission or distribution facilities and the
98 incidental taking of snakes resulting from the use of such devices.

99 D. A violation of subdivisions A 1 through ~~10~~ shall be *11* is punishable as a Class 3 misdemeanor.

100 **§ 29.1-553. Selling or offering for sale; penalty.**

101 A. Any person who offers for sale, sells, offers to purchase, or purchases any wild bird or wild
102 animal, or any part thereof, or any freshwater fish, except as provided by law, shall be guilty of a Class
103 1 misdemeanor. However, when the aggregate of such sales or purchases, or any combination thereof,
104 by any person totals \$1,000 or more during any 90-day period, that person shall be guilty of a Class 6
105 felony.

106 B. Whether or not criminal charges have been placed, when any property is taken possession of by a
107 conservation police officer for the purpose of being used as evidence of a violation of this section or for
108 confiscation, the conservation police officer making such seizure shall immediately report the seizure to
109 the Attorney for the Commonwealth.

110 C. In any prosecution for a violation of this section, photographs of the wild bird, wild animal, or
111 any freshwater fish, or any part thereof shall be deemed competent evidence of such wild bird, wild
112 animal, or freshwater fish, or part thereof and shall be admissible in any proceeding, hearing, or trial of
113 the case to the same extent as if such wild bird, wild animal, or any freshwater fish, or part thereof had
114 been introduced as evidence. Such photographs shall bear a written description of the wild bird, wild
115 animal, or freshwater fish, or parts thereof, the name of the place where the alleged offense occurred,
116 the date on which the alleged offense occurred, the name of the accused, the name of the arresting
117 officer or investigating officer, the date of the photograph, and the name of the photographer. The
118 photographs shall be identified by the signature of the photographer.

119 D. Any licensed Virginia auctioneer or licensed auction firm that sells, as a legitimate item of an
120 auction sale, wildlife mounts that have undergone the taxidermy process, shall be exempt from the

121 provisions of this section and subdivision A ~~11~~ 12 of § 29.1-521.

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