

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 157

An Act to amend and reenact §§ 29.1-100, 29.1-519, 29.1-523, 29.1-524, 29.1-525, and 29.1-549 of the Code of Virginia, relating to definitions of various weapons.

[S 341]

Approved March 22, 2002

Be it enacted by the General Assembly of Virginia:

1. That §§ 29.1-100, 29.1-519, 29.1-523, 29.1-524, 29.1-525, and 29.1-549 of the Code of Virginia are amended and reenacted as follows:

§ 29.1-100. Definitions.

As used in *and for the purposes of* this title *only*, or in any of the regulations of the Board, unless the context clearly requires a different meaning:

"Bag or creel limit" means the quantity of game, fish or fur-bearing animals that may be taken, caught, or possessed during a period fixed by the Board.

"Board" means the Board of Game and Inland Fisheries.

"Closed season" means that period of time fixed by the Board during which wild animals, birds or fish may not be taken, captured, killed, pursued, hunted, trapped or possessed.

"Department" means the Department of Game and Inland Fisheries.

"Director" means the Director of the Department of Game and Inland Fisheries.

"Firearm" means any weapon that will or is designed to or may readily be converted to expel single or multiple projectiles by the action of an explosion of a combustible material.

"Fishing" means taking, capturing, killing, or attempting to take, capture or kill any fish in and upon the inland waters of this Commonwealth.

"Fur-bearing animals" includes beaver, bobcat, fox, mink, muskrat, opossum, otter, raccoon, skunk, and weasel.

"Game" means wild animals and wild birds that are commonly hunted for sport or food.

"Game animals" means deer, bear, rabbit, fox, squirrel, bobcat and raccoon.

"Game fish" means trout (including all Salmonidae), all of the sunfish family (including largemouth bass, smallmouth bass and spotted bass, rock bass, bream, bluegill and crappie), walleye or pike perch, white bass, chain pickerel or jackfish, muskellunge, and northern pike, wherever such fish are found in the waters of this Commonwealth and rockfish or striped bass where found above tidewaters or in streams which are blocked from access from tidewaters by dams.

"Game warden" means supervising wardens, and regular and special game warden.

"Hunting and trapping" includes the act of or the attempted act of taking, hunting, trapping, pursuing, chasing, shooting, snaring or netting birds or animals, and assisting any person who is hunting, trapping or attempting to do so regardless of whether birds or animals are actually taken; however, when hunting and trapping are allowed, reference is made to such acts as being conducted by lawful means and in a lawful manner. The Board of Game and Inland Fisheries may authorize by regulation the pursuing or chasing of wild birds or wild animals during any closed hunting season where persons have no intent to take such birds or animals.

"Lawful," "by law," or "law" means the statutes of this Commonwealth or regulations adopted by the Board which the Director is empowered to enforce.

"Migratory game birds" means doves, ducks, brant, geese, swan, coot, gallinules, sora and other rails, snipe, woodcock and other species of birds on which open hunting seasons are set by federal regulations.

"Muzzleloading pistol" means a firearm originally designed, made or intended to fire a projectile (bullet) from one or more barrels when held in one hand and that is loaded from the muzzle or forward end of the cylinder.

"Muzzleloading rifle" means a firearm firing a single projectile that is loaded along with the propellant from the muzzle of the gun.

"Muzzleloading shotgun" means a firearm with a smooth bore firing multiple projectiles that are loaded along with the propellant from the muzzle of the gun.

"Nonmigratory game birds" means grouse, bobwhite quail, turkey and all species of birds introduced into the Commonwealth by the Board.

"Nuisance species" means blackbirds, crows, cowbirds, grackles, English sparrows, starlings, or those species designated as such by regulations of the Board, and those species found committing or about to commit depredation upon ornamental or shade trees, agricultural crops, wildlife, livestock or other property or when concentrated in numbers and manners as to constitute a health hazard or other nuisance. However, the term nuisance does not include (i) animals designated as endangered or

threatened pursuant to §§ 29.1-563, 29.1-564, and 29.1-566, (ii) animals classified as game or ~~fur-bearing~~ *fur-bearing* animals, and (iii) those species protected by state or federal law.

"Open season" means that period of time fixed by the Board during which wild animals, wild birds and fish may be taken, captured, killed, pursued, trapped or possessed.

"Pistol" means a weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having one or more chambers as an integral part of or permanently aligned with the bore and a short stock at an angle to and extending below the line of the bore that is designed to be gripped by one hand.

"Possession" means the exercise of control of any wild animal, wild bird, fish or fur-bearing animal, or any part of the carcass thereof.

"Properly licensed person" means a person who, while engaged in hunting, fishing or trapping, or in any other activity permitted under this title, in and upon the lands and inland waters of this Commonwealth, has upon his person all the licenses, permits and stamps required by law.

"Regulation" means a regulation duly adopted by the Board pursuant to the authority vested by the provisions of this title.

"Revolver" means a projectile weapon of the pistol type, having a breechloading chambered cylinder arranged so that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

"Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

"Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore or rifled shotgun barrel either a number of ball shot or a single projectile for each single pull of the trigger.

"Transportation" means the transportation, either upon the person or by any other means, of any wild animal or wild bird or fish.

"Wildlife" means all species of wild animals, wild birds and freshwater fish in the public waters of this Commonwealth.

§ 29.1-519. Guns, pistols, revolvers, etc., which may be used; penalty.

A. All wild birds and wild animals may be hunted with the following weapons unless shooting is expressly prohibited:

1. A shotgun or muzzleloading shotgun not larger than ten gauge;
2. An automatic-loading or hand-operated repeating shotgun capable of holding not more than three shells the magazine of which has been cut off or plugged with a one-piece filler incapable of removal through the loading end, so as to reduce the capacity of the gun to not more than three shells at one time in the magazine and chamber combined;
3. A rifle, a muzzleloading rifle, or an air rifle;
4. A bow and arrow; or
5. A crossbow, which is a type of bow and arrow, used by disabled individuals. Such individuals who meet criteria established by the Department and attested to by a licensed physician on a standardized form provided by the Department, which shall be in the individual's possession while hunting, shall be allowed to participate in hunting seasons under the same rules, regulations, laws, and conditions that apply to hunters using standard archery equipment.

B. A pistol, muzzle-loading pistol or revolver may be used to hunt nuisance species of birds and animals between sunrise and sunset except over inland waters, and raccoons during the legal hunting hours for said species.

C. In the counties west of the Blue Ridge Mountains, and counties east of the Blue Ridge where rifles of a caliber larger than .22 caliber may be used for hunting wild birds and animals, game birds and animals may be hunted with pistols or revolvers firing cartridges rated in manufacturers' tables at 350 foot pounds of energy or greater and under the same restrictions and conditions as apply to rifles, provided that no cartridge shall be used with a bullet of less than .23 caliber. In no event shall pistols or revolvers firing cartridges rated in manufacturers' tables at 350 foot pounds of energy or greater be used if rifles of a caliber larger than .22 caliber are not authorized for hunting purposes.

D. The use of muzzle-loading pistols and .22 caliber rimfire handguns is permitted for hunting small game where .22 caliber rifles are permitted.

E. The hunting of wild birds and wild animals with fully automatic firearms, defined as a machine gun in § 18.2-288, is prohibited.

F. The hunting of wild birds or wild animals with (i) weapons other than those authorized by this section or (ii) weapons that have been prohibited by this section shall be punishable as a Class 3 misdemeanor.

§ 29.1-523. Killing deer by use of certain lights; acts raising presumption of attempt to kill.

Any person who kills or attempts to kill any deer between a half hour after sunset and a half hour

before sunrise by use of a light attached to any vehicle or a spotlight or flashlight shall be guilty of a Class 2 misdemeanor. The flashing of a light attached to any vehicle or a spotlight or flashlight from any vehicle between a half hour after sunset and half hour before sunrise by any person or persons, then in possession of a ~~rifle, shotgun, pistol~~ *firearm*, crossbow, or bow and arrow or speargun, without good cause, shall raise a presumption of an attempt to kill deer in violation of this section. Every person in or on any such vehicle shall be deemed a principal in the second degree and subject to the same punishment as a principal in the first degree. Every person who, in any manner, aids, abets or acts in concert with any person or persons violating this section shall be deemed a principal in the second degree and subject to the same punishment as a principal in the first degree.

In addition to the penalty prescribed herein, the court shall revoke the current hunting license, if any, of the person convicted of violating this section and prohibit the issuance of any hunting license to that person for the next license year. If found hunting during this prohibited period, the person shall be guilty of a Class 2 misdemeanor. Notification of such revocation or prohibition shall be forwarded to the Department pursuant to subsections C and D of § 18.2-56.1.

This section shall not apply to persons duly authorized to kill deer according to the provisions of § 29.1-529.

§ 29.1-524. Forfeiture of vehicles and weapons used for killing or attempt to kill.

Every vehicle, ~~rifle, shotgun, pistol~~ *firearm*, crossbow, bow and arrow, or speargun used with the knowledge or consent of the owner or lienholder thereof, in killing or attempting to kill deer between a half hour after sunset and a half hour before sunrise in violation of § 29.1-523, and every vehicle used in the transportation of the carcass, or any part thereof, of a deer so killed shall be forfeited to the Commonwealth. Upon being condemned as forfeited in proceedings under Chapter 22 (§ 19.2-369 et seq.) of Title 19.2, the proceeds of sale shall be disposed of according to law.

§ 29.1-525. Employment of lights under certain circumstances upon places used by deer.

A. Any person in any vehicle and then in possession of any ~~rifle, shotgun, pistol~~ *firearm*, crossbow, bow and arrow or speargun who employs a light attached to the vehicle or a spotlight or flashlight to cast a light beyond the water or surface of the roadway upon any place used by deer shall be guilty of a Class 2 misdemeanor. Every person in or on any such vehicle shall be deemed prima facie a principal in the second degree and subject to the same punishment as a principal in the first degree. This subsection shall not apply to a landowner in possession of a weapon when he is on his own land and is making a bona fide effort to protect his property from damage by deer and not for the purpose of killing deer unless the landowner is in possession of a permit to do so pursuant to the provisions of § 29.1-529.

B. Any person in any motor vehicle who deliberately employs a light attached to such vehicle or a spotlight or flashlight to cast a light beyond the surface of the roadway upon any place used by deer, except upon his own land or upon land on which he has an easement or permission for such purpose, shall be guilty of a Class 4 misdemeanor. Every person in or on any such vehicle shall be deemed prima facie a principal in the second degree and subject to the same punishment as a principal in the first degree.

C. In addition to the penalties prescribed in subsection A of this section, the court shall revoke the current hunting license, if any, of the person convicted of a violation of subsection A of this section and prohibit the issuance of any hunting license to that person for the next license year. In addition to the penalties prescribed in subsection B of this section, the court may revoke the current hunting license, if any, of the person convicted of a violation of subsection B of this section and prohibit the issuance of any hunting license to that person for the next license year. If a person convicted of a violation of subsection A or subsection B of this section is found hunting during the prohibited period, the person shall be guilty of a Class 2 misdemeanor. Notification of such revocation or prohibition shall be forwarded to the Department pursuant to subsections C and D of § 18.2-56.1.

§ 29.1-549. Hunting deer from watercraft; confiscation of watercraft and weapons used.

A. Any person who kills or attempts to kill any deer while the person is in a boat or other type watercraft shall be guilty of a Class 4 misdemeanor.

B. Every boat or other watercraft and their motors, and any ~~rifle, shotgun~~ *firearm*, crossbow, bow and arrow, or speargun used with the knowledge or consent of the owner or lienholder thereof, in killing or attempting to kill deer in violation of this section, shall be forfeited to the Commonwealth, and upon being condemned as forfeited in proceedings under Chapter 22 (§ 19.2-369 et seq.) of Title 19.2 the proceeds of sale shall be disposed of according to law.

2. That the provisions of this act shall become effective on January 1, 2003.