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HOUSE BILL NO. 202

Offered January 9, 2002

Prefiled January 4, 2002

A BILL to amend and reenact §§ 29.1-340 through 29.1-351 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 29.1-341.1, 29.1-347.1 and 29.1-350.1, and to repeal Chapter 312 of the Acts of Assembly of 1924, relating to waterfowl hunting; penalty.

Patron—Cox

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 29.1-340 through 29.1-351 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 29.1-341.1, 29.1-347.1 and 29.1-350.1 as follows:

§ 29.1-340. Hunting waterfowl from unlicensed blinds and without season license.

Except as provided in 29.1-344.1 and 29.1-350, it shall be unlawful to hunt migratory waterfowl on the public waters and from the shores of the public waters east of Interstate Route 95 in the Commonwealth from unlicensed stationary or floating blinds. For the purposes of this article, the term "public waters" means public waters which that are navigable in fact. Any person hunting waterfowl shall also have a season license to hunt.

§ 29.1-341. Stationary blinds.

Stationary blinds shall mean blinds means structures erected at a fixed locatiion either on the shores of the public waters or in the public waters at a fixed location the required distance from other blinds and shall include brush or stake blinds, or any other stationary blinds permitted by law. Clubs or individuals who do not own riparian rights shall be permitted to license no more than two stationary blinds in the public waters in any one season. Stationary blinds shall be erected not later than November 1 of each year for the sole purpose of hunting and shooting waterfowl.

A stationary blind shall be (i) of such size and strength that it can be occupied by and can conceal one or more hunters, or (ii) large enough to accommodate and conceal a boat or skiff from which one or more hunters intend to hunt or shoot waterfowl.

§ 29.1-341.1. Number of stationary blinds permitted.

Clubs or individuals who do not own riparian rights shall be permitted to license no more than two stationary blinds in the public waters in any one season.

§ 29.1-342. Floating blinds.

A. Floating Except as provided in subsection B, floating blinds shall mean floating blinds permitted by law in the public waters means lawful floating devices, whether in motion or not, used for the purpose of hunting and shooting waterfowl.

B. Floating devices used (i) to pursue a visible crippled waterfowl that was legally shot by the person or (ii) as a platform over water from which to hunt and shoot waterfowl while in a licensed stationary blind shall be deemed a floating blind.

C. They Floating blinds may be used in any position in public waters at different locations from day to day if the blind is anchored the required distance from any other a stationary blind, unless agreed otherwise between the parties. Licenses for floating blinds shall be limited to two floating blinds in any one season, to any one applicant.

§ 29.1-343. Fees for waterfowl blind licenses.

The fees for waterfowl blind licenses shall be as follows:

1. For fee for a stationary blind erected in the public waters or on the shores of the riparian owner to shoot over the public waters, or for a floating blind in the public water to shoot over the public waters, shall be seventeen dollars and fifty cents.

2. For a floating blind, in the public waters, to shoot over the public waters, thirty-five dollars.

§ 29.1-344. Stationary blinds on shore and in the public waters for owners of riparian rights.

A. Each year, the owners of riparian rights, their lessees or permittees shall have the exclusive privilege of licensing and erecting stationary blinds on their shoreline, and the prior right of licensing and erecting stationary blinds in the public waters in front of their shoreline, to shoot waterfowl over the public waters.

B. Such Stationary blinds shall not be located in water having a depth greater than eight feet at mean high tide, nor shall they be located further than halfway across the body of water from the riparian owner's shoreline.

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59 C. ~~When such~~ *Except as provided in subsections D and E, when a license has been obtained and a*
60 *stake or a stationary blind has been erected on the site with the license for that season properly affixed,*
61 *no other stationary or floating blind shall be located in the public waters within 500 yards of the*
62 *licensed site without the consent of the riparian owner, lessee or permittee.*

63 D. *When the land of two riparian owners adjoins and each has obtained a license to erect a*
64 *stationary blind according to the requirements of this article, either owner may place a stationary blind*
65 *on his shoreline or in the public waters in front of his shoreline without regard to the placement of*
66 *blinds on the adjoining property.*

67 E. Riparian owners, their lessees or permittees may obtain licenses on and after July 1 and on or
68 before August 31 of each year. A stake or a blind shall be erected on the site, and a license plate
69 supplied with the license for that season shall be affixed thereto by August 31. If a stake has been
70 erected on the site of a stationary blind, such stake must be replaced by a *stationary* blind by November
71 1 pursuant to the provisions of § 29.1-341. Such blinds shall conform to the standards prescribed in
72 ~~subsection C of § 29.1-349~~ *§ 29.1-341 and regulations of the Board.*

73 § 29.1-344.1. Stationary duck blind license; riparian landowners exempted.

74 Notwithstanding the provisions of § 29.1-340, the owners of riparian rights, ~~or~~ *of their invitees or*
75 *lessees* shall not be required to obtain a stationary blind license when hunting waterfowl from ~~such~~ *a*
76 *stationary blind located on the riparian owner's property. However, a stationary blind license shall be*
77 *required in order to afford the riparian owners, their lessees or permittees the protections provided by*
78 *§§ 29.1-344, 29.1-345, and 29.1-349.*

79 § 29.1-345. Stationary blinds in the public waters for nonriparian owners.

80 Unless a license has been obtained pursuant to § 29.1-344, and a stake or a *stationary* blind has been
81 erected and marked within the time stated as specified in that section, in any year, the owners of
82 riparian rights, their lessees or permittees shall forfeit the privilege of licensing blinds on their shores
83 and also lose priority for licensing stationary blinds in the public waters adjoining such shores. Any
84 locations remaining in the public waters shall belong to whoever first obtains a license and erects a
85 stake or a *stationary* blind. The *stationary* blind cannot be located in water having a greater depth than
86 eight feet at mean high tide on the site selected. In addition, the *stationary* blind must be at least 500
87 yards from any other *legally licensed* stationary blind, and the license for that season must be properly
88 affixed to the structure.

89 The nonriparian license for a stationary blind in the public waters may be obtained on and after July
90 1 and on or before September 30. A stake or *stationary* blind shall be erected on the site, and a license
91 plate supplied with the license for that season must be affixed thereto by October 10. *If a stake has*
92 *been erected on the site of a stationary blind, such stake must be replaced by a stationary blind by*
93 *November 1 pursuant to the provisions of § 29.1-341 and regulations of the Board.*

94 § 29.1-346. When license for floating blinds issued; distance from stationary blinds.

95 Licenses for floating blinds ~~permitted by law, in the public waters,~~ may be obtained on and after July
96 1. Floating blinds shall have a license plate supplied with the license for that season affixed to the blind.
97 ~~Floating blinds, including any accompanying boat or tender, shall anchor or tie out at least 500 yards~~
98 ~~from any licensed stationary blind for shooting, whether on the shore or in the water, unless agreed~~
99 ~~otherwise between the parties.~~

100 § 29.1-347. Renewing licenses.

101 The holders of licenses first issued under this article may renew the same privileges each succeeding
102 year by licensing within the time required and placing the license tag on the stake or blind as required
103 by this article. The exclusive privileges prescribed with respect to *riparian* owners and their lessees and
104 permittees in § 29.1-344 shall be recurrent each year even if the privileges were forfeited to some other
105 person or persons in the preceding year. ~~If any blind is destroyed in any manner beyond the control of~~
106 ~~the owner, it may be replaced within thirty days without losing the position which it formerly occupied.~~
107 ~~Those licensing stationary blinds in the public waters shall remove the blinds when the licenses expire~~
108 ~~or when they no longer intend to use them.~~

109 § 29.1-347.1. Rebuilding or removing stationary blinds; destroying blind of another.

110 A. *If any licensed stationary blind is destroyed in any manner beyond the control of the owner, it*
111 *may be replaced within thirty days without losing the position that it formerly occupied. Those licensing*
112 *stationary blinds in the public waters shall remove the blinds when the licenses expire or when they no*
113 *longer intend to use them.*

114 B. *It shall be unlawful to destroy in any manner a legally licensed blind of another person.*

115 § 29.1-348. Obtaining licenses.

116 All applications for stationary blind licenses under this article shall be made to the local license
117 ~~agent or clerk of the circuit court~~ *agent of the circuit court* of the county or city in ~~which or nearest which~~ *which* the *stationary* blind
118 ~~site is located. The clerk or local license agent shall be paid similar fees as for issuing hunting licenses.~~
119 *All applications for a floating blind license under this article shall be made to any local license agent*
120 *who sells stationary blind licenses.*

With each license for a stationary blind, the clerk or local license agent shall record the location of the stationary blind site on a form approved by the Department and deliver a license plate bearing the number of the license, which shall be affixed to the blind where it may be easily observed. The record shall be available for public inspection during times that the licensing agent is open. The Department shall furnish the licenses and license plates provided for in this article. The money arising from the sale of blind licenses shall be paid into the game protection fund. The local license agent shall be paid similar fees as agents that issue hunting licenses.

§ 29.1-349. Hunting, erecting blind within 500 yards of licensed blind.

A. No person shall hunt or shoot migratory waterfowl or shoot in the public waters or from the shores of the public waters of this Commonwealth from a boat, float, raft or other buoyant craft or device within 500 yards of any legally licensed erected stationary blind of another without the consent of the licensee, except when in active pursuit of a visible crippled waterfowl which was legally shot by the person or as provided in subsection D of § 29.1-344.

B. ~~No~~ Except as provided in subsection D of § 29.1-344 no person shall erect a stationary blind in the public waters within 500 yards of any other licensed stationary blind without the consent of the licensee. Any person who violates this subsection shall be guilty of a trespass, and the affected blind licensee may maintain an action for damages. Furthermore, the trial court shall immediately revoke the blind owner's license for the stationary blind where the offense was committed. The blind owner may be eligible for a license in the following open season upon the same conditions that would apply to a new applicant. When a license for a stationary blind has been revoked, the blind shall be destroyed by the former licensee or by the game warden.

C. ~~An erected stationary blind within the meaning of this section shall be a blind of such size and strength that it can be occupied by one or more hunters, or large enough to accommodate a boat or a skiff, and intended for use therefor.~~

§ 29.1-350. Exemption from application of article.

~~The~~ Except as provided in § 29.1-350.1 provisions of this article shall not apply to the shores and public waters and marshes of Accomack and Northampton Counties. However, in those localities no person shall hunt migratory waterfowl, whether from a blind or otherwise, without having obtained a season license the required licenses to hunt.

§ 29.1-350.1. Accomack and Northampton Counties duck blinds.

A. It shall be unlawful for any person, without the written consent of the owner, to shoot from any duck blind belonging to another in the waters within the jurisdiction of the Counties of Accomack and Northampton.

B. It shall be unlawful for any person, firm or corporation to erect or build in such waters more than three such duck blinds.

C. Any person violating any of the provisions of this section shall be guilty of a Class 3 misdemeanor.

§ 29.1-351. Regulations to be issued; present regulations continued in force.

The Board shall have the power to amend or alter the provisions of this article by regulation prescribing a distance less than 500 yards between stationary blinds whenever and wherever such action seems practicable and desirable. The Board may adopt other regulations concerning the use of such blinds as may appear advisable to meet changing conditions as to hunting migratory game birds. The regulations of the Board now applying to such hunting are hereby continued in force until amended or repealed by the Board; however, the Board shall not have the power to alter in any respect the privileges prescribed for owners and their lessees and permittees in §§ 29.1-344 and 29.1-347.

2. That Chapter 312 of the Acts of Assembly of 1924 is repealed.