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SENATE BILL NO. 341

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Militia, Police and Public Safety on February 22, 2002)

(Patron Prior to Substitute—Senator Ruff)

A BILL 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.

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

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60 nuisance. However, the term nuisance does not include (i) animals designated as endangered or  
61 threatened pursuant to §§ 29.1-563, 29.1-564, and 29.1-566, (ii) animals classified as game or ~~fur-bearing~~  
62 *fur-bearing* animals, and (iii) those species protected by state or federal law.

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

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

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

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

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

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

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

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

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

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

91 § 29.1-519. Guns, pistols, revolvers, etc., which may be used; penalty.

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

94 1. A shotgun or muzzleloading shotgun not larger than ten gauge;

95 2. An automatic-loading or hand-operated repeating shotgun capable of holding not more than three  
96 shells the magazine of which has been cut off or plugged with a one-piece filler incapable of removal  
97 through the loading end, so as to reduce the capacity of the gun to not more than three shells at one  
98 time in the magazine and chamber combined;

99 3. A rifle, a muzzleloading rifle, or an air rifle;

100 4. A bow and arrow; or

101 5. A crossbow, which is a type of bow and arrow, used by disabled individuals. Such individuals  
102 who meet criteria established by the Department and attested to by a licensed physician on a  
103 standardized form provided by the Department, which shall be in the individual's possession while  
104 hunting, shall be allowed to participate in hunting seasons under the same rules, regulations, laws, and  
105 conditions that apply to hunters using standard archery equipment.

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

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

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

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

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

122 misdemeanor.

123 § 29.1-523. Killing deer by use of certain lights; acts raising presumption of attempt to kill.

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

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

139 This section shall not apply to persons duly authorized to kill deer according to the provisions of  
140 § 29.1-529.

141 § 29.1-524. Forfeiture of vehicles and weapons used for killing or attempt to kill.

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

148 § 29.1-525. Employment of lights under certain circumstances upon places used by deer.

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

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

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

172 § 29.1-549. Hunting deer from watercraft; confiscation of watercraft and weapons used.

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

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

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