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HOUSE BILL NO. 575

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources
on January 25, 2006)

(Patron Prior to Substitute—Delegate Nixon)

A BILL to amend and reenact §§ 29.1-521 and 29.1-530 of the Code of Virginia, relating to trapping; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 29.1-521 and 29.1-530 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 shall be unlawful:

1. To hunt or kill any wild bird or wild animal, including any nuisance species, with a gun, firearm or other weapon on Sunday, which is hereby declared a rest day for all species of wild bird and wild animal life, except raccoons, which may be hunted until 2:00 a.m. on Sunday mornings. 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 molest 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 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 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 them. 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 as provided in § 29.1-521.3.

7. To set a trap of any kind on the lands or waters of another without attaching to the trap the name and address of the trapper.

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 conibear-style body-gripping traps that are completely submerged at least once every 72 hours.*

10. To hunt, trap, take, capture, kill, attempt to take, capture or kill, possess, deliver for transportation, transport, cause to be transported, by any means whatever, receive for transportation or export, or import, at any time or in any manner, any wild bird or wild animal or the carcass or any part thereof, except as specifically permitted by law and only by the manner or means and within the numbers stated. However, the provisions of this section shall not be construed to prohibit the (i) use or transportation of legally taken turkey carcasses, or portions thereof, for the purposes of making or selling turkey callers or (ii) the manufacture or sale of implements, including, but not limited to, tools or utensils, made from legally harvested deer skeletal parts, including antlers.

11. To offer for sale, sell, offer to purchase, or purchase, at any time or in any manner, any wild bird or wild animal or the carcass or any part thereof, except as specifically permitted by law, including, but not limited to, subsection D of § 29.1-553. However, any nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, which is (i) organized to provide wild game

60 as food to the hungry and (ii) authorized by the Department to possess, transport and distribute donated
61 or unclaimed meat to the hungry, may pay a processing fee in order to obtain such meat. Such fees shall
62 not exceed the actual cost for processing the meat. In addition, any nonprofit organization exempt from
63 taxation under § 501 (c) (3) of the Internal Revenue Code, that is (a) organized to support wildlife
64 habitat conservation and (b) approved by the Department, shall be allowed to offer wildlife mounts that
65 have undergone the taxidermy process for sale in conjunction with fundraising activities. A violation of
66 this subdivision shall be punishable as provided in § 29.1-553.

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

73 "Verification" as used in this section shall include, but is not limited to, (i) showing a valid tribal
74 identification card, (ii) confirmation through a central tribal registry, (iii) a letter from a tribal chief or
75 council, or (iv) certification from a tribal office that the person is an enrolled member of the tribe.

76 C. A violation of subdivisions 1 through 10 of subsection A of this section shall be punishable as a
77 Class 3 misdemeanor.

78 § 29.1-530. Open and closed season for trapping, bag limits, etc.

79 A. There shall be a continuous open season for trapping nuisance species and a continuous closed
80 trapping season on all other species of wild birds and wild animals, except as provided by Board
81 regulations. However, a landowner or his agent may trap and dispose of, except by sale, squirrels
82 creating a nuisance on his property at any time in any area where the use of firearms for such purpose
83 is prohibited by law or local ordinance.

84 B. In addition, the following general rules shall be applicable to any person trapping in the
85 Commonwealth:

86 1. The trapper shall be responsible for all damage done by an illegally set trap, and any person
87 finding a trap set contrary to law may report it to the landowner upon whose land the trap is located or
88 to any game warden who may destroy or otherwise make the trap inoperable.

89 2. A landowner may trap furbearing animals, except beaver, muskrat and raccoons, upon his own
90 land during closed season.

91 3. Licensed trappers may shoot wild animals caught in traps ~~during the open hunting season if the~~
92 ~~trapper has a license to hunt on any day of the week during the seasons prescribed in subsection A in~~
93 ~~order to dispatch such animal. No additional licenses are required other than a valid Virginia trapping~~
94 ~~license.~~

95 4. It shall be lawful to trap wild animals within the daily bag and season limits, if any, during the
96 open season provided by Board regulations.