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HOUSE BILL NO. 373

Offered January 13, 2010

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A *BILL to amend and reenact §§ 18.2-56.1, 18.2-135, 29.1-338, 29.1-521.2, 29.1-523, 29.1-523.1, 29.1-525, 29.1-525.1, and 29.1-530.3 of the Code of Virginia, relating to hunting, trapping, and fishing; penalties.*

Patron—Shuler

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-56.1, 18.2-135, 29.1-338, 29.1-521.2, 29.1-523, 29.1-523.1, 29.1-525, 29.1-525.1, and 29.1-530.3 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-56.1. Reckless handling of firearms; reckless handling while hunting.

A. It shall be unlawful for any person to handle recklessly any firearm so as to endanger the life, limb or property of any person. Any person violating this section shall be guilty of a Class 1 misdemeanor.

B. If this section is violated while the person is engaged in hunting, trapping or pursuing game, the trial judge may, in addition to the penalty imposed by the jury or the court trying the case without a jury, revoke such person's hunting or trapping license ~~or privilege and privileges~~ to hunt or trap while possessing a firearm for a period of one year to life.

C. Upon a revocation pursuant to subsection B hereof, the clerk of the court in which the case is tried pursuant to this section shall forthwith send to the Department of Game and Inland Fisheries (i) such person's revoked hunting or trapping license or notice that such person's privilege to hunt or trap while in possession of a firearm has been revoked and (ii) a notice of the length of revocation imposed. The Department shall keep a list which shall be furnished upon request to any law-enforcement officer, the attorney for the Commonwealth or court in this Commonwealth, and such list shall contain the names and addresses of all persons whose license or privilege to hunt or trap while in possession of a firearm has been revoked and the court which took such action.

D. If any person whose license to hunt and trap, or whose privilege to hunt and trap while in possession of a firearm, has been revoked pursuant to this section, thereafter hunts or traps while in possession of a firearm, he shall be guilty of a Class 1 misdemeanor, and, in addition to any penalty imposed by the jury or the court trying the case without a jury, the trial judge may revoke such person's hunting or trapping license; ~~or privilege and privileges~~ to hunt or trap while in possession of a firearm; for an additional period ~~not to exceed of one to five years~~. The clerk of the court shall notify the Department of Game and Inland Fisheries as is provided in subsection C herein.

§ 18.2-135. Destruction of posted signs; posting land of another.

Any person who shall mutilate, destroy or take down any "posted," "no hunting" or similar sign or poster on the lands or waters of another, or who shall post such sign or poster on the lands or waters of another, without the consent of the landowner or his agent, shall be deemed guilty of a Class 3 misdemeanor and his hunting, fishing, and trapping license and privileges shall be revoked for a period ~~not exceeding the expiration date of such license of one to five years from the date of conviction~~.

§ 29.1-338. Revocation of license and privileges; penalties.

If any person is found guilty of violating (i) any of the provisions of the hunting, trapping, or inland fish laws, any provisions of §§ 15.2-915.2, 15.2-1209.1, 18.2-131 through ~~18.2-135~~ 18.2-136 and §§ 18.2-285 through 18.2-286.1, or any regulations adopted by the Board pursuant thereto, a second time within three years of a previous conviction of violating any such law or regulation, or (ii) any provisions of law or ordinance governing the dumping of refuse, trash or other litter, while engaged in hunting, trapping or fishing, ~~the such license issued to such person and privileges~~ shall be revoked by the court trying the case and that person shall not apply for a new license ~~or exercise such privileges~~ until ~~twelve~~ 12 months succeeding the date of conviction. The court may also prohibit the convicted person from ~~obtaining any license to hunt, fish, or trap~~ hunting, fishing, or trapping in the Commonwealth for a period of one year to five years. If found hunting, trapping or fishing during this prohibited period, the person shall be guilty of a Class 2 misdemeanor. Licenses revoked shall be sent to the Director.

§ 29.1-521.2. Violation of § 18.2-286 while hunting; forfeiture of certain weapons; revocation of license and privileges.

A. Any firearm, crossbow or bow and arrow used by any person to hunt any game bird or game animal in a manner which violates § 18.2-286 may, upon conviction of such person violating § 18.2-286,

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59 be forfeited to the Commonwealth by order of the court trying the case. The forfeiture shall be enforced
60 as provided in Chapter 22 (§ 19.2-369 et seq.) of Title 19.2. The officer or other person seizing the
61 property shall immediately give notice to the attorney for the Commonwealth.

62 B. The court may revoke the current hunting license, ~~if any, and privileges~~ of a person hunting any
63 game bird or game animal in a manner that constitutes a violation of § 18.2-286. The court may prohibit
64 the issuance of any hunting license to that person *from hunting* for a period of ~~up to~~ one to five years. If
65 found hunting during this prohibited period, the person shall be guilty of a Class 2 misdemeanor. If
66 Notification of such revocation or prohibition shall be forwarded to the Department pursuant to
67 subsection C of § 18.2-56.1.

68 § 29.1-523. Killing deer by use of certain lights; acts raising presumption of attempt to kill.

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

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

85 This section shall not apply to persons duly authorized to kill deer according to the provisions of
86 § 29.1-529.

87 § 29.1-523.1. Hunting deer with sights after dark; forfeiture of weapon and sighting device.

88 A. Any person who kills or attempts to kill any deer between one hour after sunset and one hour
89 before sunrise using a firearm equipped with any sighting device other than iron or open sights shall be
90 guilty of a Class 2 misdemeanor. In addition to this penalty, the court shall revoke the current hunting
91 license, ~~if any, and privileges~~ of the person convicted of violating this section and prohibit the issuance
92 of any hunting license to that person *from hunting for the next license year a period of one to five*
93 *years*. Notification of such revocation or prohibition shall be forwarded to the Department pursuant to
94 subsections C and D of § 18.2-56.1.

95 B. Every firearm equipped with any sighting device other than iron or open sights used with the
96 knowledge or consent of the owner in violation of this section shall be forfeited to the Commonwealth.
97 Upon being condemned as forfeited in proceedings under Chapter 22 (§ 19.2-369 et seq.) of Title 19.2,
98 the proceeds of the sale shall be disposed of according to law.

99 This section shall not apply to persons duly authorized to kill deer according to the provisions of
100 § 29.1-529.

101 § 29.1-525. Employment of lights under certain circumstances upon places used by deer.

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

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

116 C. In addition to the penalties prescribed in subsection A of this section, the court shall revoke the
117 current hunting license, ~~if any, and privileges~~ of the person convicted of a violation of subsection A of
118 this section and prohibit the issuance of any hunting license to that person *from hunting for the next*
119 *license year a period of one to five years*. In addition to the penalties prescribed in subsection B of this
120 section, the court may revoke the current hunting license, ~~if any, and privileges~~ 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 from hunting for one to five years. 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.

§ 29.1-525.1. Deer enclosures prohibited; exceptions; penalty.

A. It is unlawful to erect a fence that prevents or impedes the free egress of deer from the enclosed area with the intent to confine deer.

B. It is unlawful to hunt deer inside a fenced area that prevents or impedes the free egress of deer.

C. The provisions of subsection A shall not apply to:

1. Local, state or federal public lands on which fences are erected to protect public health or safety;
2. Enclosures permitted by the Department as fallow deer farms or permitted exhibitors holding native deer for educational purposes;
3. Enclosures permitted by the U.S. Department of Agriculture as exhibitors, breeders, or dealers; or
4. Zoos accredited by the American Zoological Association.

D. The provisions of subsection B shall not apply to (i) local, state or federal public lands on which fences are erected to protect public health or safety, or (ii) any person hunting in an enclosure or facility that (a) was constructed prior to July 1, 2001, (b) has been registered with the Department not later than August 1, 2001, and annually thereafter, and (c) has been modified not later than ninety 90 days following registration in a manner approved by the Director or his designee to allow the free egress of deer. Such registration shall not be transferable. The Department shall place information of the initial registration requirement in newspapers of general circulation throughout the Commonwealth. Such enclosures or facilities shall operate using acceptable hunting and wildlife management practices determined by the Director or his designee, including, but not limited to, methods of take, use of dogs, and supplemental feeding. The Director or his designee shall provide the owner of the enclosure or facility with information on what constitutes acceptable hunting and wildlife management practices.

E. Any registered enclosure or facility within which the owners or persons hunting have not followed acceptable hunting wildlife management practices shall have its registration revoked by the Department. Upon revocation of the registration, any person hunting within the enclosure or facility shall be subject to the provisions of subsection B and the penalties imposed under subsection F.

F. Any person who violates this section is guilty of a Class 1 misdemeanor. Any person who is convicted of violating this section shall have his hunting license and privileges suspended by the court for a period of not less than three or more than one to five years. In addition, the court may order compensation for replacement for any deer killed be paid to the Department as provided for in § 29.1-551, and may order the owner of the fence to modify the fence to allow the free egress by deer.

§ 29.1-530.3. Remote hunting prohibited; penalty.

A. It is unlawful for any person to engage in computer-assisted remote hunting or provide or operate a facility that allows others to engage in computer-assisted remote hunting if the wild animal or wild bird being hunted or shot is located in the Commonwealth.

B. Any person who violates this section is guilty of a Class 1 misdemeanor. In addition to the penalty prescribed herein, the court shall revoke all current hunting licenses, if any, and privileges of the person convicted of violating this section and prohibit the issuance of any hunting license to that person from hunting for a period of not less than three nor more than one to five years. Notification of the revocation or prohibition shall be forwarded to the Department pursuant to subsections C and D of § 18.2-56.1.

C. For the purposes of this section "computer-assisted remote hunting" means the use of a computer or other device, equipment, or software, to remotely control the aiming and discharge of a firearm or other weapon, that allows a person, not physically present, to hunt or shoot any wild animal or wild bird.