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**HOUSE BILL NO. 488**

Offered January 13, 2010

Prefiled January 12, 2010

*A BILL to amend and reenact § 29.1-521 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 29.1-528.1, relating to establishing ordinances to allow the hunting of deer with bow and arrow and crossbows in certain localities; penalty.*

Patron—Lingamfelter

Referred to Committee on Agriculture, Chesapeake and Natural Resources

**Be it enacted by the General Assembly of Virginia:**

**1. That § 29.1-521 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 29.1-528.1 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 (i) *as authorized in § 29.1-528.1* and (ii) 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: (i) the name and address of the trapper; or (ii) an identification number issued by the Department.

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 and the Board may adopt regulations permitting trappers to visit traps less frequently under specified conditions.

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

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59 transportation of legally taken turkey carcasses, or portions thereof, for the purposes of making or  
60 selling turkey callers or (ii) the manufacture or sale of implements, including, but not limited to, tools or  
61 utensils, made from legally harvested deer skeletal parts, including antlers.

62 11. To offer for sale, sell, offer to purchase, or purchase, at any time or in any manner, any wild  
63 bird or wild animal or the carcass or any part thereof, except as specifically permitted by law, including,  
64 but not limited to, subsection D of § 29.1-553. However, any nonprofit organization exempt from  
65 taxation under § 501(c)(3) of the Internal Revenue Code, which is (i) organized to provide wild game as  
66 food to the hungry and (ii) authorized by the Department to possess, transport and distribute donated or  
67 unclaimed meat to the hungry, may pay a processing fee in order to obtain such meat. Such fees shall  
68 not exceed the actual cost for processing the meat. In addition, any nonprofit organization exempt from  
69 taxation under § 501(c)(3) of the Internal Revenue Code, that is (a) organized to support wildlife habitat  
70 conservation and (b) approved by the Department, shall be allowed to offer wildlife mounts that have  
71 undergone the taxidermy process for sale in conjunction with fundraising activities. A violation of this  
72 subdivision shall be punishable as provided in § 29.1-553.

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

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

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

84 § 29.1-528.1. *Board to develop model ordinances for hunting with bow and arrow; counties or cities*  
85 *may adopt.*

86 A. *The Board shall adopt regulations establishing model ordinances for hunting deer with bow and*  
87 *arrow and crossbows in those counties and cities where there is an overabundance of the deer*  
88 *population, which is creating conflicts between humans and deer, including safety hazards to motorists.*  
89 *The model ordinances shall include (i) the times at which such hunting shall commence and end each*  
90 *day, and if on Sunday that such hunting shall not be allowed prior to noon and (ii) the number of deer*  
91 *that can be taken based on analysis performed by the Department.*

92 B. *No such ordinance shall be enforceable unless the governing body notifies the Director by*  
93 *registered mail prior to May 1 of the year in which the ordinance is to take effect. Any change*  
94 *jurisdictions may seek in the model ordinance shall be approved by the Board prior to its adoption.*

95 C. *In adopting an ordinance pursuant to the provisions of this section, the governing body of any*  
96 *locality may provide that any person who violates the provisions of the ordinance shall be guilty of a*  
97 *Class 3 misdemeanor.*