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HOUSE BILL NO. 2442

Offered January 19, 2011

A BILL to amend and reenact §§ 29.1-521, 29.1-521.1, and 29.1-553 of the Code of Virginia, relating to hunting on Sundays.

 Patron—Keam

 Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 29.1-521, 29.1-521.1, and 29.1-553 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: (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 transportation of legally taken turkey carcasses, or portions thereof, for the purposes of making or selling turkey callers, (ii) the manufacture or sale of implements, including, but not limited to, tools or utensils, made from legally harvested deer skeletal parts, including antlers, or (iii) the possession of shed

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HB2442

59 antlers.

60 ~~4410.~~ To offer for sale, sell, offer to purchase, or purchase, at any time or in any manner, any wild
61 bird or wild animal or the carcass or any part thereof, except as specifically permitted by law, including,
62 but not limited to, subsection D of § 29.1-553. However, any nonprofit organization exempt from
63 taxation under § 501(c) (3) of the Internal Revenue Code, which is (i) organized to provide wild game
64 as food to the hungry and (ii) authorized by the Department to possess, transport and distribute donated
65 or unclaimed meat to the hungry, may pay a processing fee in order to obtain such meat. Such fees shall
66 not exceed the actual cost for processing the meat. In addition, any nonprofit organization exempt from
67 taxation under § 501(c) (3) of the Internal Revenue Code, that is (a) organized to support wildlife habitat
68 conservation and (b) approved by the Department, shall be allowed to offer wildlife mounts that have
69 undergone the taxidermy process for sale in conjunction with fundraising activities. A violation of this
70 subdivision shall be punishable as provided in § 29.1-553.

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

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

80 C. A violation of subdivisions A 1 through ~~40 of subsection A of this section~~ 9 shall be punishable
81 as a Class 3 misdemeanor.

82 § 29.1-521.1. Willfully impeding hunting or trapping; penalty.

83 A. It is unlawful to willfully and intentionally impede the lawful hunting or trapping of wild birds or
84 wild animals.

85 B. It is unlawful for any person or his agent to knowingly and intentionally facilitate or attempt to
86 cause a violation of subdivision A 4 3 of § 29.1-521 by putting out bait or salt for any wildlife in any
87 place used or occupied by hunters to hunt wild birds or wild animals.

88 C. Any person convicted of a violation of this section is guilty of a Class 3 misdemeanor.

89 § 29.1-553. Selling or offering for sale; penalty.

90 A. Any person who offers for sale, sells, offers to purchase, or purchases any wild bird or wild
91 animal, or any part thereof, or any freshwater fish, except as provided by law, shall be guilty of a Class
92 1 misdemeanor. However, when the aggregate of such sales or purchases or any combination thereof, by
93 any person totals \$200 or more during any 90-day period, that person shall be guilty of a Class 6
94 felony.

95 B. Whether or not criminal charges have been placed, when any property is taken possession of by a
96 conservation police officer for the purpose of being used as evidence of a violation of this section or for
97 confiscation, the conservation police officer making such seizure shall immediately report the seizure to
98 the Attorney for the Commonwealth.

99 C. In any prosecution for a violation of this section, photographs of the wild bird, wild animal, or
100 any freshwater fish, or any part thereof shall be deemed competent evidence of such wild bird, wild
101 animal, or freshwater fish, or part thereof and shall be admissible in any proceeding, hearing, or trial of
102 the case to the same extent as if such wild bird, wild animal, or any freshwater fish, or part thereof had
103 been introduced as evidence. Such photographs shall bear a written description of the wild bird, wild
104 animal, or freshwater fish, or parts thereof, the name of the place where the alleged offense occurred,
105 the date on which the alleged offense occurred, the name of the accused, the name of the arresting
106 officer or investigating officer, the date of the photograph, and the name of the photographer. The
107 photographs shall be identified by the signature of the photographer.

108 D. Any licensed Virginia auctioneer or licensed auction firm that sells, as a legitimate item of an
109 auction sale, wildlife mounts that have undergone the taxidermy process, shall be exempt from the
110 provisions of this section and subdivision A ~~44 10~~ of § 29.1-521.