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HOUSE BILL NO. 172

Offered January 11, 2012

Prefiled January 9, 2012

A BILL to amend and reenact § 29.1-521 of the Code of Virginia, relating to hunting with a firearm on land where trespassing or hunting is prohibited; penalties.

Patron—Loupassi

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 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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59 antlers.

60 11. 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 12. *To enter without permission or legal authority and for the purpose of hunting any wild bird or*
72 *wild animal with a weapon (i) any private property that the person knows to be posted with a No*
73 *Trespassing sign or (ii) any private or public property that the person knows or should know to require*
74 *permission or legal authority for entry, at any time or under any circumstances in which hunting is*
75 *otherwise unlawful.*

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

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

85 C. A violation of subdivisions A 1 through A 10 of ~~subsection A of this section~~ shall be punishable
86 as a Class 3 misdemeanor. *A violation of subdivision A 12 shall be punishable by a fine of not less than*
87 *\$500 and not more than \$1,000. In addition, the hunting license or privileges of any person found guilty*
88 *of violating subdivision A 12 shall be revoked by the court trying the case, and that person shall not be*
89 *eligible for a new license or privileges until 12 months succeeding the date of conviction. Licenses*
90 *revoked shall be sent to the Director. Any weapon used by any person to hunt any animal in a manner*
91 *that violates subdivision A 12 may, upon conviction of such person violating subdivision A 12, be*
92 *forfeited to the Commonwealth by order of the court trying the case. The forfeiture shall be enforced as*
93 *provided in Chapter 22 (§ 19.2-369 et seq.) of Title 19.2. The officer or other person seizing the*
94 *property shall immediately give notice to the attorney for the Commonwealth.*