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HOUSE BILL NO. 2149

Offered January 9, 2013

Prefiled January 9, 2013

A BILL to amend and reenact § 29.1-553 of the Code of Virginia, relating to the sale of freshwater fish.

Patrons—Kearney and LeMunyon

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:**1. That § 29.1-553 of the Code of Virginia is amended and reenacted as follows:****§ 29.1-553. Selling or offering for sale; penalty.**

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

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

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

D. Any licensed Virginia auctioneer or licensed auction firm that sells, as a legitimate item of an auction sale, wildlife mounts that have undergone the taxidermy process, shall be exempt from the provisions of this section and subdivision A 11 of § 29.1-521.

E. Notwithstanding the provisions of this section and subdivision A 11 of § 29.1-521, it is lawful for any person to sell or offer to sell a fish that is of the same species as a fish found in the freshwaters of Virginia if (i) the fish has been propagated, reared, enhanced, and harvested for commercial purposes in an aquaculture facility, as defined in § 3.2-2600; (ii) the person maintains and makes available documentation establishing the source of the fish that is sold or offered for sale; and (iii) the person provides signage or other notice to purchasers that the fish offered for sale was propagated, reared, enhanced, and harvested from an aquaculture facility.

F. Notwithstanding the provisions of this section and subdivision A 11 of § 29.1-521, it is lawful for any person to purchase or offer to purchase a fish that is of the same species as a fish found in the freshwaters of Virginia if the seller has provided signage or other notice to purchasers that the fish offered for sale was propagated, reared, enhanced, and harvested in an aquaculture facility.

INTRODUCED

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