

# VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

## CHAPTER 121

*An Act to amend and reenact §§ 29.1-103 and 29.1-521 of the Code of Virginia, relating to manufacture and sale of products made from wildlife parts.*

[H 262]

Approved March 1, 2016

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

**1. That §§ 29.1-103 and 29.1-521 of the Code of Virginia are amended and reenacted as follows:**

**§ 29.1-103. Powers and duties of the Board.**

The Board is responsible for carrying out the purposes and provisions of this title and is authorized to:

1. Appoint the Director of the Department.
2. Acquire by purchase, lease, exchange, gift or otherwise, lands and waters in the Commonwealth and to establish buildings, structures, dams, lakes and ponds on such lands and waters. However, it is the policy of the Commonwealth that there shall be no net loss of those public lands managed by the Department that are available for hunting in Virginia.
3. Conduct operations for the preservation and propagation of game birds, game animals, fish and other wildlife in order to increase, replenish and restock the lands and inland waters of the Commonwealth.
4. Purchase, lease, or otherwise acquire lands and waters for game and fish refuges, preserves or public shooting and fishing, and establish such lands and waters under appropriate regulations.
5. Acquire by purchase, lease, or otherwise, lands and structures for use as public landings, wharves, or docks; to improve such lands and structures; and to control the use of all such public landings, wharves, or docks by regulation.
6. Acquire and introduce any new species of game birds, game animals, or fish on the lands and within the waters of the Commonwealth, with the authorization and cooperation of the local government for the locality where the introduction occurs.
7. Restock, replenish and increase any depleted native species of game birds, game animals, or fish.
8. Have educational matter pertaining to wildlife published and distributed.
9. Hold exhibits throughout the Commonwealth for the purpose of educating school children, agriculturists and other persons in the preservation and propagation of wildlife in the Commonwealth.
10. Control land owned by and under control of the Commonwealth in Back Bay, its tributaries and the North Landing River from the North Carolina line to North Landing Bridge. The Board shall regulate or prohibit by regulation any drilling, dredging or other operation designed to recover or obtain shells, minerals, or other substances in order to prevent practices and operations which would harm the area for fish and wildlife.
11. Exercise powers it may deem advisable for conserving, protecting, replenishing, propagating and increasing the supply of game birds, game animals, fish and other wildlife of the Commonwealth.
12. Adopt resolutions or regulations conferring upon the Director all such powers, authorities and duties as the Board possesses and deems necessary or proper to carry out the purposes of this title.
13. Administer and manage the Virginia Fish Passage Grant and Revolving Loan Fund pursuant to Article 1.1 (§ 29.1-101.2 et seq.) of Chapter 1.
14. Establish and collect admittance, parking, or other use fees at certain Department-owned facilities as determined by the Board. Any daily fee established by the Board shall not exceed \$3. Any annual fee established by the Board shall not exceed the cost of an annual state resident fishing license pursuant to subdivision A 2 of § 29.1-310, or an annual state resident hunting license pursuant to subdivision 2 of § 29.1-303.
15. Establish and collect a use fee through the issuance of an annual hunting stamp required to be obtained to hunt on private lands managed by the Department through a lease agreement or other similar memorandum of agreement. The annual hunting stamp shall be in addition to the required licenses to hunt, and the cost of such stamp shall be the same as the cost of the annual state resident hunting license in § 29.1-303.
16. Revise, as it deems appropriate, through the promulgation of regulations as prescribed in Article 1 (§ 29.1-500 et seq.), the fees charged for all hunting, fishing and trapping licenses authorized under Articles 1 (§ 29.1-300 et seq.) and 2 (§ 29.1-340 et seq.) of Chapter 3, notwithstanding any other provision of this title. Beginning July 1, 2004, and no more frequently than once every three years thereafter, such license fees for residents may be increased or decreased no more than \$5. Beginning July 1, 2007, and no more frequently than once every three years thereafter, the Board may increase or decrease license fees for nonresidents, authorized under Article 1 (§ 29.1-300 et seq.) of Chapter 3, no

more than \$50.

17. Take such regulatory or other action as it may determine to be necessary to enable the Commonwealth to become a party to the Interstate Wildlife Violator Compact, as authorized in Article 2.1 (§ 29.1-530.5), and to implement the Compact in the Commonwealth. The promulgation of any regulations pursuant to this subdivision shall be as prescribed in Article 1 (§ 29.1-500 et seq.).

18. *Adopt regulations that allow any person who holds a valid license to hunt or trap to manufacture and sell products made from wildlife that he has lawfully taken, except where the Board determines that such manufacture or sale is detrimental to public health or sound wildlife management.*

**§ 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, or to hunt or kill any deer or bear with a gun, firearm, or other weapon with the aid or assistance of dogs, on Sunday. The provision of this subdivision that prohibits the hunting or killing of any wild bird or wild animal, including nuisance species, on Sunday shall not apply to (i) raccoons, which may be hunted until 2:00 a.m. on Sunday mornings; (ii) any person who hunts or kills waterfowl, subject to geographical limitations established by the Director and except within 200 yards of a place of worship or any accessory structure thereof; or (iii) any landowner or member of his family or any person with written permission from the landowner who hunts or kills any wild bird or wild animal, including any nuisance species, on the landowner's property, except within 200 yards of a place of worship or any accessory structure thereof. 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 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. The Board shall adopt regulations permitting trappers to use remote trap-checking technology to check traps 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) *the use or transportation of legally taken turkey carcasses, or portions thereof, for the purposes of making or selling turkey callers; or using turkey feathers or toes for making tools or utensils or selling such tools or utensils;* (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 antlers.

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

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

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

C. A violation of subdivisions A 1 through 10 shall be punishable as a Class 3 misdemeanor.

**2. That the provisions of this act amending § 29.1-521 of the Code of Virginia shall expire on July 1, 2017.**