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HOUSE BILL NO. 1588

Offered January 11, 2017

Prefiled January 2, 2017

A *BILL to amend and reenact § 29.1-521, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to baiting deer.*

Patrons—Campbell and Lindsey

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 29.1-521, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 29.1-521. (Effective until July 1, 2017) 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) any person who hunts or kills raccoons, which may be hunted until 2:00 a.m. on Sunday mornings; (ii) any person who hunts or kills birds in the family Rallidae or 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 it. 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 *subdivision* shall not apply to baiting nuisance species of animals ~~and~~ or birds, *to baiting deer during any deer hunting season*, 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

59 trappers to visit traps less frequently under specified conditions. The Board shall adopt regulations
60 permitting trappers to use remote trap-checking technology to check traps under specified conditions.

61 10. To hunt, trap, take, capture, kill, attempt to take, capture, or kill, possess, deliver for
62 transportation, transport, cause to be transported, by any means whatever, receive for transportation or
63 export, or import, at any time or in any manner, any wild bird or wild animal or the carcass or any part
64 thereof, except as specifically permitted by law and only by the manner or means and within the
65 numbers stated. However, the provisions of this section shall not be construed to prohibit (i) the use or
66 transportation of legally taken turkey carcasses, or portions thereof, for the purposes of making or
67 selling turkey callers or using turkey feathers or toes for making tools or utensils or selling such tools or
68 utensils; (ii) the manufacture or sale of implements, including tools or utensils made from legally
69 harvested deer skeletal parts, including antlers; (iii) the possession of shed antlers; or (iv) the possession,
70 manufacture, or sale of other parts or implements authorized by regulations adopted by the Board.

71 11. To offer for sale, sell, offer to purchase, or purchase, at any time or in any manner, any wild
72 bird or wild animal or the carcass or any part thereof, except as specifically permitted by law, including
73 subsection D of § 29.1-553. However, any nonprofit organization exempt from taxation under
74 § 501(c)(3) of the Internal Revenue Code that is (i) organized to provide wild game as food to the
75 hungry and (ii) authorized by the Department to possess, transport, and distribute donated or unclaimed
76 meat to the hungry may pay a processing fee in order to obtain such meat. Such fee shall not exceed the
77 actual cost for processing the meat. In addition, any nonprofit organization exempt from taxation under
78 § 501(c)(3) of the Internal Revenue Code that is (a) organized to support wildlife habitat conservation
79 and (b) approved by the Department shall be allowed to offer wildlife mounts that have undergone the
80 taxidermy process for sale in conjunction with fundraising activities. A violation of this subdivision shall
81 be punishable as provided in § 29.1-553.

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

88 "Verification" as used in this subsection shall include (i) display of a valid tribal identification card,
89 (ii) confirmation through a central tribal registry, (iii) a letter from a tribal chief or council, or (iv)
90 certification from a tribal office that the person is an enrolled member of the tribe.

91 C. Notwithstanding any other provision of this chapter, the Department may authorize the use of
92 snake exclusion devices by public utilities at their transmission or distribution facilities and the
93 incidental taking of snakes resulting from the use of such devices.

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

95 **§ 29.1-521. (Effective July 1, 2017) Unlawful to hunt, trap, possess, sell, or transport wild birds**
96 **and wild animals except as permitted; exception; penalty.**

97 A. The following shall be unlawful:

98 1. To hunt or kill any wild bird or wild animal, including any nuisance species, with a gun, firearm,
99 or other weapon, or to hunt or kill any deer or bear with a gun, firearm, or other weapon with the aid
100 or assistance of dogs, on Sunday. The provision of this subdivision that prohibits the hunting or killing
101 of any wild bird or wild animal, including nuisance species, on Sunday shall not apply to (i) any person
102 who hunts or kills raccoons, which may be hunted until 2:00 a.m. on Sunday mornings; (ii) any person
103 who hunts or kills birds in the family Rallidae or waterfowl, subject to geographical limitations
104 established by the Director and except within 200 yards of a place of worship or any accessory structure
105 thereof; or (iii) any landowner or member of his family or any person with written permission from the
106 landowner who hunts or kills any wild bird or wild animal, including any nuisance species, on the
107 landowner's property, except within 200 yards of a place of worship or any accessory structure thereof.
108 However, a person lawfully carrying a gun, firearm, or other weapon on Sunday in an area that could be
109 used for hunting shall not be presumed to be hunting on Sunday, absent evidence to the contrary.

110 2. To destroy or molest the nest, eggs, dens, or young of any wild bird or wild animal, except
111 nuisance species, at any time without a permit as required by law.

112 3. To hunt or attempt to kill or trap any species of wild bird or wild animal after having obtained the
113 daily bag or season limit during such day or season. However, any properly licensed person, or a person
114 exempt from having to obtain a license, who has obtained such daily bag or season limit while hunting
115 may assist others who are hunting game by calling game, retrieving game, handling dogs, or conducting
116 drives if the weapon in his possession is an unloaded firearm, a bow without a nocked arrow, or an
117 unloaded crossbow. Any properly licensed person, or person exempt from having to obtain a license,
118 who has obtained such season limit prior to commencement of the hunt may assist others who are
119 hunting game by calling game, retrieving game, handling dogs, or conducting drives, provided he does
120 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 it. 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 *subdivision* shall not apply to baiting nuisance species of animals ~~and~~ or birds, *to baiting deer during deer hunting season*, 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) 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 tools or utensils made from legally harvested deer skeletal parts, including antlers; (iii) the possession of shed antlers; or (iv) the possession, manufacture, or sale of other parts or implements authorized by regulations adopted by the Board.

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 subsection D of § 29.1-553. However, any nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that 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 fee 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 shall include (i) display of 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. Notwithstanding any other provision of this chapter, the Department may authorize the use of snake exclusion devices by public utilities at their transmission or distribution facilities and the incidental taking of snakes resulting from the use of such devices.

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