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HOUSE BILL NO. 1061

Offered January 11, 2006

Prefiled January 11, 2006

A BILL to amend and reenact §§ 29.1-521 and 29.1-553 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 29.1-402.1, relating to the sale of bear parts.

Patrons—Watts, Amundson, Bulova, Callahan, Hull, Moran, Plum, Rust, Scott, J.M., Shannon and Sickles; Senators: Cuccinelli, Howell, Ticer and Whipple

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 29.1-521 and 29.1-553 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 29.1-402.1 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 the name and address of the trapper.

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.

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 or (ii) the manufacture or sale of implements, including, but not limited to, tools or utensils, made from legally harvested deer skeletal parts, including 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,

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

67 *B. Notwithstanding any other provision of this article, parts from a bear legally hunted within the*
68 *Commonwealth can be sold by the hunter to a resident of the Commonwealth. Resale of bear parts is*
69 *prohibited unless a resale permit is obtained from the Department as provided in § 29.1-402.1.*

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

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

79 CD. A violation of subdivisions 1 through 10 of subsection A of this section shall be punishable as a
80 Class 3 misdemeanor.

81 § 29.1-553. Selling or offering for sale; penalty.

82 A. Any person who offers for sale, sells, offers to purchase, or purchases any wild bird or wild
83 animal, or any part thereof, or any freshwater fish, except as provided by law, shall be guilty of a Class
84 1 misdemeanor. However, when the aggregate of such sales or purchases or any combination thereof, by
85 any person totals \$200 or more during any 90-day period, that person shall be guilty of a Class 6
86 felony. *However, parts from a bear legally hunted within the Commonwealth can be sold by the hunter*
87 *to a resident of the Commonwealth. Resale of bear parts is prohibited unless a resale permit is obtained*
88 *from the Department as provided in § 29.1-402.1.*

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

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

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

105 § 29.1-402.1. Selling of bear parts; permit.

106 *The Director shall create standards and requirements and issue permits to qualified residents of the*
107 *Commonwealth for the resale of bear parts from bears legally hunted within the Commonwealth,*
108 *including but not limited to claws, bones and gallbladders. The license shall limit the resale of bear*
109 *parts to residents of the Commonwealth. The fee for the permit shall be \$25 per year.*