

VIRGINIA ACTS OF ASSEMBLY -- 2009 SESSION

CHAPTER 648

An Act to amend and reenact § 29.1-103 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 5 of Title 29.1 an article numbered 2.1, consisting of a section numbered 29.1-530.5, relating to the Department of Game and Inland Fisheries' membership in the Interstate Wildlife Violator Compact.

[H 2281]

Approved March 30, 2009

Be it enacted by the General Assembly of Virginia:

1. That § 29.1-103 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 5 of Title 29.1 an article numbered 2.1, consisting of a section numbered 29.1-530.5, 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.
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 of this title.
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.) of Chapter 5 of this title, 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 of this title, 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 of this title, 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) of Chapter 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.) of Chapter 5.*

Article 2.1.

Wildlife Violator Compact.

§ 29.1-530.5. Wildlife Violator Compact.

ARTICLE I

Findings, Declaration of Policy, and Purpose

(a) The participating states find that:

(1) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors;

(2) The protection of the wildlife resources of a state is materially affected by the degree of compliance with state statutes, laws, regulations, rules, and ordinances relating to the management of those resources;

(3) The preservation, protection, management, and restoration of wildlife contributes immeasurably to the aesthetic, recreational, and economic aspects of such natural resources;

(4) Wildlife resources are valuable without regard to political boundaries; therefore, every person should be required to comply with wildlife preservation, protection, management, and restoration statutes, laws, rules, regulations, and ordinances of the participating states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife;

(5) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property;

(6) The mobility of many wildlife law violators necessitates the maintenance of channels of communication among the various states;

(7) In most instances, a person who is cited for a wildlife violation in a state other than the person's home state:

(i) Is required to post collateral or a bond to secure an appearance for a trial at a later date;

(ii) Is taken into custody until the collateral or bond is posted; or

(iii) Is taken directly to court for an immediate appearance;

(8) The purpose of the enforcement practices set forth in paragraph (7) of this subsection is to ensure compliance with the terms of a wildlife citation by the cited person who, if permitted to continue on the person's way after receiving the citation, could return to the person's home state and disregard any duty under the terms of the citation;

(9) In most instances, a person receiving a wildlife citation in the person's home state is permitted to accept the citation from the officer at the scene of the violation and immediately continue on the person's way after agreeing or being instructed to comply with the terms of the citation;

(10) The practices described in paragraph (7) of this subsection cause unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay a fine, and thus is compelled to remain in custody until some alternative arrangement is made; and

(11) The enforcement practices described in paragraph (7) of this subsection consume an undue amount of law-enforcement time.

(b) It is the policy of the participating states to:

(1) Promote compliance with the statutes, laws, regulations, rules, and ordinances relating to management of wildlife resources in their respective states;

(2) Recognize a suspension of wildlife license privileges of any person whose license privileges have been suspended by a participating state and treat that suspension as if it had occurred in each respective state;

(3) Allow a violator, except as provided in Article III, subsection (b) of this compact, to accept a wildlife citation and, without delay, proceed on the person's way, regardless of the violator's home state, if that state is a party to this compact;

(4) Report to the appropriate participating state, as provided in the compact manual, any conviction recorded against a person whose home state was not the issuing state;

(5) Allow the home state to recognize and treat convictions recorded against its residents, which convictions occurred in a participating state, as though they had occurred in the home state;

(6) Extend cooperation to its fullest extent among the participating states for enforcing compliance with the terms of a wildlife citation issued in one participating state to a resident of another participating state;

- (7) Maximize the effective use of law-enforcement personnel and information; and
- (8) Assist court systems in the efficient disposition of wildlife violations.
- (c) The purpose of this compact is to:
 - (1) Provide a means through which participating states may join in a reciprocal program to effectuate the policies enumerated in subsection (b) of this article in a uniform and orderly manner; and
 - (2) Provide for the fair and impartial treatment of wildlife violators operating within participating states in recognition of the violator's right to due process and the sovereign status of a participating state.

ARTICLE II

Definitions

As used in this compact, unless the context requires otherwise, the following words have the meanings indicated:

- (a) "Citation" means any summons, complaint, summons and complaint, ticket, penalty assessment, or other official document issued to a person by a wildlife officer or other law-enforcement officer for a wildlife violation that contains an order requiring the person to respond.
- (b) "Collateral" means any cash or other security deposited to secure an appearance for trial in connection with the issuance by a wildlife officer or other law-enforcement officer of a citation for a wildlife violation.
- (c) "Compliance" with respect to a citation means the act of answering a citation through an appearance in a court or tribunal, or through the payment of fines, costs, and surcharges, if any.
- (d) "Conviction" means a conviction that results in suspension or revocation of a license, including any court conviction, for an offense related to the preservation, protection, management, or restoration of wildlife that is prohibited by state statute, law, regulation, rule, or ordinance. The term also includes the forfeiture of any bail, bond, or other security deposited to secure the appearance of a person charged with having committed the offense, the payment of a penalty assessment, a plea of nolo contendere, or the imposition of a deferred or suspended sentence by the court.
- (e) "Court" means a court of law, including magistrate's court and the justice of the peace court.
- (f) "Home state" means the state of primary residence of a person.
- (g) "Issuing state" means the participating state that issues a wildlife citation to the violator.
- (h) "License" means a license, permit, or other public document that conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, rule, or ordinance of a participating state.
- (i) "Licensing authority" means the governmental unit in each participating state that is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.
- (j) "Participating state" means a state that enacts legislation to become a member of this Wildlife Violator Compact.
- (k) "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that such person will comply with the terms of the citation.
- (l) "State" means any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the provinces of Canada, and other countries.
- (m) "Suspension" means any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by a license.
- (n) "Terms of the citation" means the conditions and options expressly stated upon the citation.
- (o) "Wildlife" means all species of animals including, but not limited to, mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, that are defined as "wildlife" and are protected or otherwise regulated by statute, law, rule, regulation, or ordinance in a participating state. Species included in the definition of "wildlife" vary from state to state and the determination of whether a species is "wildlife" for the purposes of this Compact shall be based on the law of the issuing state.
- (p) "Wildlife law" means a statute, law, regulation, rule, or ordinance developed and enacted for the management of wildlife resources and the uses thereof.
- (q) "Wildlife officer" means any individual authorized by a participating state to issue a citation for a wildlife violation.
- (r) "Wildlife violation" means any cited violation of a statute, law, regulation, rule, or ordinance developed and enacted for the management of wildlife resources and the uses thereof.

ARTICLE III

Procedures for Issuing State

- (a) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a participating state in the same manner as though the person were a resident of the issuing state and shall not require such person to post collateral to secure appearance, subject to the exceptions noted in subsection (b) of this article, if the officer receives the recognizance of such person that he will comply with the terms of the citation.
- (b) Personal recognizance is acceptable if not prohibited by local law; by policy, procedure, or regulation of the issuing agency; or by the compact manual and if the violator provides adequate proof of identification to the wildlife officer.

(c) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the participating state in which the wildlife citation was issued. The report shall be made in accordance with procedures specified by the issuing state and must contain information as specified in the compact manual as minimum requirements for effective processing by the home state.

(d) Upon receiving the report of conviction or noncompliance pursuant to subsection (c) of this article, the licensing authority of the issuing state shall transmit to the licensing authority of the home state of the violator the information in the form and content prescribed in the compact manual.

ARTICLE IV

Procedure for Home State

(a) Upon receipt of a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the terms of a citation, the licensing authority of the home state shall notify the violator and shall initiate a suspension action in accordance with the home state's suspension procedures and shall suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due process safeguards shall be accorded to the violator.

(b) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter such conviction in its records and shall treat such conviction as though the conviction had occurred in the home state for the purposes of the suspension of license privileges.

(c) The licensing authority of the home state shall maintain a record of actions taken and shall make reports to issuing states as provided in the compact manual.

ARTICLE V

Reciprocal Recognition of Suspension

(a) All participating states shall recognize the suspension of license privileges of a person by a participating state as though the violation resulting in the suspension had occurred in their state and could have been the basis for suspension of license privileges in their state.

(b) Each participating state shall communicate suspension information to other participating states in a form and content prescribed in the compact manual.

ARTICLE VI

Applicability of Other Laws

Except as expressly required by provisions of this compact, nothing in this compact may be construed to affect the right of a participating state to apply any of its laws relating to license privileges to any person or circumstance or to invalidate or prevent any agreement or other cooperative arrangement between a participating state and a nonparticipating state concerning the enforcement of wildlife laws.

ARTICLE VII

Compact Administrator Procedures

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a Board of Compact Administrators is established. The board shall be composed of one representative from each of the participating states to be known as the compact administrator. The compact administrator shall be appointed by the head of the licensing authority of each participating state and shall serve and be subject to removal in accordance with the laws of the state he or she represents. A compact administrator may provide for an alternate for the discharge of his or her duties and the performance of his or her functions as a board member. An alternate is not entitled to serve unless written notification of the alternate's identity has been given to the board.

(b) Each member of the Board of Compact Administrators shall be entitled to one vote. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of the board's votes are cast in favor thereof. Action by the board shall be only at a meeting at which a majority of the participating states are represented.

(c) The board shall elect annually from its membership a chairman and vice chairman.

(d) The board shall adopt bylaws not inconsistent with the provisions of this compact or the laws of a participating state for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board may accept for any of its purposes and functions under this compact any and all donations and grants of moneys, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental unit, and may receive, utilize, and dispose of those grants and donations.

(f) The board may contract with, or accept services or personnel from, any governmental or intergovernmental unit, individual, firm, or corporation, or any private nonprofit organization or institution.

(g) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board

action shall be contained in a compact manual.

ARTICLE VIII

Entry into Compact and Withdrawal

(a) This compact shall become effective at such time as it is adopted in substantially similar form by two or more states.

(b) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the chairman of the board. The resolution shall substantially be in the form and content as provided in the compact manual and shall include the following:

(1) A citation of the authority from which the state is empowered to become a party to this compact;

(2) An agreement of compliance with the terms and provisions of this compact; and

(3) An agreement that compact entry is with all states participating in the compact and with all additional states legally becoming a party to the compact.

(c) The effective date of entry shall be specified by the applying state, but may not be less than 60 days after notice has been given by the chairman of the Board of Compact Administrators or by the secretariat of the board to each participating state that the resolution from the applying state has been received.

(d) A participating state may withdraw from this compact by official written notice to each participating state, but withdrawal shall not become effective until 90 days after the notice of withdrawal is given. The notice shall be directed to the compact administrator of each member state. The withdrawal of any state does not affect the validity of this compact as to the remaining participating states.

ARTICLE IX

Amendments to the Compact

(a) This Compact may be amended from time to time. Amendments shall be presented in resolution form to the chairman of the Board of Compact Administrators and shall be initiated by one or more participating states.

(b) Adoption of an amendment shall require endorsement by all participating states and shall become effective 30 days after the date of the last endorsement.

(c) Failure of a participating state to respond to the compact chairman within 120 days after receipt of a proposed amendment shall constitute endorsement of the proposed amendment.

ARTICLE X

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of a participating state or of the United States, or if the applicability thereof to any government, unit, individual, or circumstance is held invalid, the validity of the remainder of this compact shall not be affected thereby. If this compact is held contrary to the constitution of a participating state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the participating state affected as to all severable matters.

ARTICLE XI

Title

This compact shall be known as the "Wildlife Violator Compact."