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SENATE BILL NO. 859

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources
on February 21, 2018)

(Patron Prior to Substitute—Senator Chafin)

A *BILL to amend and reenact §§ 15.2-916, 15.2-1209, 18.2-285, 18.2-286, 29.1-306, 29.1-307, 29.1-519, 29.1-521, 29.1-521.2, 29.1-524, 29.1-525, and 29.1-549 of the Code of Virginia, relating to arrowgun hunting; license.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-916, 15.2-1209, 18.2-285, 18.2-286, 29.1-306, 29.1-307, 29.1-519, 29.1-521, 29.1-521.2, 29.1-524, 29.1-525, and 29.1-549 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-916. Prohibiting shooting of compound bows, slingbows, arrowguns, crossbows, longbows, and recurve bows.

Any locality may prohibit the shooting of an arrow from a bow *or arrowgun* in a manner that can be reasonably expected to result in the impact of the arrow upon the property of another without permission from the owner or tenant of such property. For the purposes of this section, "bow" includes all compound bows, crossbows, slingbows, longbows, and recurve bows having a peak draw weight of 10 pounds or more. The term "bow" does not include bows that have a peak draw weight of less than 10 pounds or that are designed or intended to be used principally as toys. The term "arrow" means a shaft-like projectile intended to be shot from a bow.

§ 15.2-1209. Prohibiting outdoor shooting of firearms or arrows from bows or arrowguns in certain areas.

Any county may prohibit the outdoor shooting of firearms or arrows from bows *or arrowguns* in any areas of the county which are in the opinion of the governing body so heavily populated as to make such conduct dangerous to the inhabitants thereof.

For purposes of this section, "bow" includes all compound bows, crossbows, slingbows, longbows, and recurve bows having a peak draw weight of 10 pounds or more. The term "bow" does not include bows that have a peak draw weight of less than 10 pounds or that are designed or intended to be used principally as toys. The term "arrow" means a shaft-like projectile intended to be shot from a bow.

Any county that prohibits the outdoor shooting of firearms or arrows from bows *or arrowguns* shall provide an exemption for the killing of deer pursuant to § 29.1-529. Such exemption for the shooting of firearms *or arrowguns* shall apply on land of at least five acres that is zoned for agricultural use. Such exemption for the shooting of arrows from bows shall apply on land of at least two acres that is zoned for agricultural use.

§ 18.2-285. Hunting with firearms while under influence of intoxicant or narcotic drug; penalty.

It shall be unlawful for any person to hunt wildlife with a firearm, bow and arrow, slingbow, *arrowgun*, or crossbow in the Commonwealth while he is (i) under the influence of alcohol; (ii) under the influence of any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature, or any combination of such drugs, to a degree that impairs his ability to hunt with a firearm, bow and arrow, slingbow, *arrowgun*, or crossbow safely; or (iii) under the combined influence of alcohol and any drug or drugs to a degree that impairs his ability to hunt with a firearm, bow and arrow, slingbow, *arrowgun*, or crossbow safely. Any person who violates the provisions of this section is guilty of a Class 1 misdemeanor. Conservation police officers, sheriffs, and all other law-enforcement officers shall enforce the provisions of this section.

§ 18.2-286. Shooting in or across road or in street.

If any person discharges a firearm, crossbow, slingbow, *arrowgun*, or bow and arrow in or across any road, or within the right-of-way thereof, or in a street of any city or town, he shall, for each offense, be guilty of a Class 4 misdemeanor.

The provisions of this section shall not apply to firing ranges or shooting matches maintained, and supervised or approved, by law-enforcement officers and military personnel in performance of their lawful duties.

§ 29.1-306. Special archery license, slingbow license, and crossbow license.

There shall be a license for hunting with a bow and arrow, slingbow, or crossbow, during the special archery seasons, which shall be in addition to the licenses required to hunt small and big game. *Any person who is disabled so as to prevent drawing the weight of a bow or crossbow may obtain such license for hunting with an arrowgun. The applicant shall provide proof of disability acceptable to the Director on a standardized form provided by the Department, which shall be in the person's possession while hunting with an arrowgun.*

The fee for the special license shall be \$17 for a resident and \$30 for a nonresident. The Board may

60 subsequently revise the cost of licenses set forth in this section pursuant to § 29.1-103.

61 **§ 29.1-307. Special muzzleloading license.**

62 There shall be a license for hunting with a muzzleloader *or arrowgun* during the special
63 muzzleloading seasons, which shall be in addition to the license required to hunt small game.

64 The fee for the special license shall be ~~twelve dollars~~ \$12 for a resident and ~~twenty-five dollars~~ \$25
65 for a nonresident. The special muzzleloader license may be obtained from the clerk or agent whose duty
66 it is to sell licenses in any county or city. The Board may subsequently revise the cost of licenses set
67 forth in this section pursuant to § 29.1-103.

68 **§ 29.1-519. Guns, pistols, revolvers, etc., which may be used; penalty.**

69 A. All wild birds and wild animals may be hunted with the following weapons unless shooting is
70 expressly prohibited:

71 1. A shotgun or muzzleloading shotgun not larger than 10 gauge;

72 2. An automatic-loading or hand-operated repeating shotgun capable of holding not more than three
73 shells the magazine of which has been cut off or plugged with a one-piece filler incapable of removal
74 through the loading end, so as to reduce the capacity of the gun to not more than three shells at one
75 time in the magazine and chamber combined, unless otherwise allowed by Board regulations;

76 3. A rifle, a muzzleloading rifle, or an air rifle;

77 4. A bow and arrow;

78 5. [Expired.]

79 6. A crossbow, which is a type of bow and arrow, in accordance with the provisions of § 29.1-306;

80 7. A slingshot, except when hunting deer, bear, elk, or turkey; ~~and~~

81 8. *An arrowgun, which is a pneumatic-powered air gun that fires an arrow; and*

82 9. A slingbow, which is a type of bow and arrow, in accordance with the provisions of § 29.1-306
83 except when hunting bear or elk.

84 B. A pistol, muzzleloading pistol, or revolver may be used to hunt nuisance species of birds and
85 animals.

86 C. In the counties west of the Blue Ridge Mountains, and counties east of the Blue Ridge where
87 rifles of a caliber larger than .22 caliber may be used for hunting wild birds and animals, game birds and
88 animals may be hunted with pistols or revolvers firing cartridges rated in manufacturers' tables at 350
89 foot pounds of energy or greater and under the same restrictions and conditions as apply to rifles,
90 provided that no cartridge shall be used with a bullet of less than .23 caliber. In no event shall pistols or
91 revolvers firing cartridges rated in manufacturers' tables at 350 foot pounds of energy or greater be used
92 if rifles of a caliber larger than .22 caliber are not authorized for hunting purposes.

93 D. The use of muzzleloading pistols and .22 caliber rimfire handguns is permitted for hunting small
94 game where .22 caliber rifles are permitted.

95 E. The use of muzzleloading pistols of .45 caliber or larger is permitted for hunting big game where
96 and in those seasons when the use of muzzleloading rifles is permitted. The Board may adopt
97 regulations that specify the types of muzzleloading pistols and the projectiles and propellants that shall
98 be permitted.

99 F. The hunting of wild birds and wild animals with fully automatic firearms, defined as a machine
100 gun in § 18.2-288, is prohibited.

101 G. The hunting of wild birds or wild animals with (i) weapons other than those authorized by this
102 section or (ii) weapons that have been prohibited by this section is punishable as a Class 3
103 misdemeanor.

104 **§ 29.1-521. Unlawful to hunt, trap, possess, sell, or transport wild birds and wild animals except
105 as permitted; exception; penalty.**

106 A. The following shall be unlawful:

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

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

121 3. To hunt or attempt to kill or trap any species of wild bird or wild animal after having obtained the

122 daily bag or season limit during such day or season. However, any properly licensed person, or a person
 123 exempt from having to obtain a license, who has obtained such daily bag or season limit while hunting
 124 may assist others who are hunting game by calling game, retrieving game, handling dogs, or conducting
 125 drives if the weapon in his possession is an unloaded firearm, a bow without a nocked arrow, an
 126 unloaded slingbow, *an unloaded arrowgun*, or an unloaded crossbow. Any properly licensed person, or
 127 person exempt from having to obtain a license, who has obtained such season limit prior to
 128 commencement of the hunt may assist others who are hunting game by calling game, retrieving game,
 129 handling dogs, or conducting drives, provided he does not have a firearm, bow, slingbow, *arrowgun*, or
 130 crossbow in his possession.

131 4. To knowingly occupy any baited blind or other baited place for the purpose of taking or
 132 attempting to take any wild bird or wild animal or to put out bait or salt for any wild bird or wild
 133 animal for the purpose of taking or killing it. There shall be a rebuttable presumption that a person
 134 charged with violating this subdivision knows that he is occupying a baited blind or other baited place
 135 for the purpose of taking or attempting to take any wild bird or wild animal. However, this shall not
 136 apply to baiting nuisance species of animals and birds, or to baiting traps for the purpose of taking
 137 fur-bearing animals that may be lawfully trapped.

138 5. To kill or capture any wild bird or wild animal adjacent to any area while a field or forest fire is
 139 in progress.

140 6. To shoot or attempt to take any wild bird or wild animal from an automobile or other vehicle,
 141 except as provided in § 29.1-521.3.

142 7. To set a trap of any kind on the lands or waters of another without attaching to the trap: (i) the
 143 name and address of the trapper; or (ii) an identification number issued by the Department.

144 8. To set a trap where it would be likely to injure persons, dogs, stock, or fowl.

145 9. To fail to visit all traps once each day and remove all animals caught, and immediately report to
 146 the landowner as to stock, dogs, or fowl that are caught and the date. However, the Director or his
 147 designee may authorize employees of federal, state, and local government agencies, and persons holding
 148 a valid Commercial Nuisance Animal Permit issued by the Department, to visit body-gripping traps that
 149 are completely submerged at least once every 72 hours, and the Board may adopt regulations permitting
 150 trappers to visit traps less frequently under specified conditions. The Board shall adopt regulations
 151 permitting trappers to use remote trap-checking technology to check traps under specified conditions.

152 10. To hunt, trap, take, capture, kill, attempt to take, capture, or kill, possess, deliver for
 153 transportation, transport, cause to be transported, by any means whatever, receive for transportation or
 154 export, or import, at any time or in any manner, any wild bird or wild animal or the carcass or any part
 155 thereof, except as specifically permitted by law and only by the manner or means and within the
 156 numbers stated. However, the provisions of this section shall not be construed to prohibit the (i) use or
 157 transportation of legally taken turkey carcasses, or portions thereof, for the purposes of making or
 158 selling turkey callers; (ii) the manufacture or sale of implements, including tools or utensils made from
 159 legally harvested deer skeletal parts, including antlers; (iii) the possession of shed antlers; or (iv) the
 160 possession, manufacture, or sale of other parts or implements authorized by regulations adopted by the
 161 Board.

162 11. To offer for sale, sell, offer to purchase, or purchase, at any time or in any manner, any wild
 163 bird or wild animal or the carcass or any part thereof, except as specifically permitted by law, including
 164 subsection D of § 29.1-553. However, any nonprofit organization exempt from taxation under
 165 § 501(c)(3) of the Internal Revenue Code that is (i) organized to provide wild game as food to the
 166 hungry and (ii) authorized by the Department to possess, transport, and distribute donated or unclaimed
 167 meat to the hungry may pay a processing fee in order to obtain such meat. Such fee shall not exceed the
 168 actual cost for processing the meat. In addition, any nonprofit organization exempt from taxation under
 169 § 501(c)(3) of the Internal Revenue Code that is (a) organized to support wildlife habitat conservation
 170 and (b) approved by the Department shall be allowed to offer wildlife mounts that have undergone the
 171 taxidermy process for sale in conjunction with fundraising activities. A violation of this subdivision shall
 172 be punishable as provided in § 29.1-553.

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

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

182 C. Notwithstanding any other provision of this chapter, the Department may authorize the use of

183 snake exclusion devices by public utilities at their transmission or distribution facilities and the
184 incidental taking of snakes resulting from the use of such devices.

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

186 **§ 29.1-521.2. Violation of § 18.2-286 while hunting; revocation of license and privileges.**

187 A. Any firearm, crossbow, slingbow, *arrowgun*, or bow and arrow used by any person to hunt any
188 game bird or game animal in a manner which violates § 18.2-286 may, upon conviction of such person
189 violating § 18.2-286, be forfeited to the Commonwealth by order of the court trying the case. The
190 forfeiture shall be enforced as provided in Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2. The officer
191 or other person seizing the property shall immediately give notice to the attorney for the
192 Commonwealth.

193 B. The court may revoke the current hunting license and privileges of a person hunting any game
194 bird or game animal in a manner that constitutes a violation of § 18.2-286. The court may prohibit that
195 person from hunting for a period of one to five years. If found hunting during this prohibited period, the
196 person shall be guilty of a Class 2 misdemeanor. Notification of such revocation or prohibition shall be
197 forwarded to the Department pursuant to subsection C of § 18.2-56.1.

198 **§ 29.1-524. Forfeiture of vehicles and weapons used for killing or attempt to kill.**

199 Every vehicle, firearm, crossbow, slingbow, *arrowgun*, bow and arrow, or speargun used with the
200 knowledge or consent of the owner or lienholder thereof, in killing or attempting to kill deer between a
201 half hour after sunset and a half hour before sunrise in violation of § 29.1-523, and every vehicle used
202 in the transportation of the carcass, or any part thereof, of a deer so killed shall be forfeited to the
203 Commonwealth. Upon being condemned as forfeited in proceedings under Chapter 22.1 (§ 19.2-386.1 et
204 seq.) of Title 19.2, the proceeds of sale shall be disposed of according to law.

205 **§ 29.1-525. Employment of lights under certain circumstances upon places used by deer.**

206 A. Any person in any vehicle and then in possession of any firearm, crossbow, slingbow, *arrowgun*,
207 bow and arrow, or speargun who employs a light attached to the vehicle or a spotlight or flashlight to
208 cast a light beyond the water or surface of the roadway upon any place used by deer shall be guilty of a
209 Class 2 misdemeanor. Every person in or on any such vehicle shall be deemed prima facie a principal in
210 the second degree and subject to the same punishment as a principal in the first degree. This subsection
211 shall not apply to a landowner in possession of a weapon when he is on his own land and is making a
212 bona fide effort to protect his property from damage by deer and not for the purpose of killing deer
213 unless the landowner is in possession of a permit to do so pursuant to the provisions of § 29.1-529.

214 B. Any person in any motor vehicle who deliberately employs a light attached to such vehicle or a
215 spotlight or flashlight to cast a light beyond the surface of the roadway upon any place used by deer,
216 except upon his own land or upon land on which he has an easement or permission for such purpose,
217 shall be guilty of a Class 4 misdemeanor. Every person in or on any such vehicle shall be deemed
218 prima facie a principal in the second degree and subject to the same punishment as a principal in the
219 first degree.

220 C. The provisions of subsections A and B shall not apply to activities conducted by a locality
221 pursuant to a permit or written authorization issued by the Department.

222 D. In addition to the penalties prescribed in subsection A, the court shall revoke the current hunting
223 license and privileges of the person convicted of a violation of subsection A and prohibit the person
224 from hunting for a period of one to five years. In addition to the penalties prescribed in subsection B,
225 the court may revoke the current hunting license and privileges of the person convicted of a violation of
226 subsection B and prohibit that person from hunting for one to five years. If a person convicted of a
227 violation of subsection A or B is found hunting during the prohibited period, the person shall be guilty
228 of a Class 2 misdemeanor. Notification of such revocation or prohibition shall be forwarded to the
229 Department pursuant to subsections C and D of § 18.2-56.1.

230 **§ 29.1-549. Hunting deer from watercraft.**

231 A. Any person who kills or attempts to kill any deer while the person is in a boat or other type
232 watercraft shall be guilty of a Class 4 misdemeanor.

233 B. Every boat or other watercraft and their motors, and any firearm, slingbow, *arrowgun*, crossbow,
234 bow and arrow, or speargun, used with the knowledge or consent of the owner or lienholder thereof in
235 killing or attempting to kill deer in violation of this section shall be forfeited to the Commonwealth, and
236 upon being condemned as forfeited in proceedings under Chapter 22.1 (§ 19.2-386.1 et seq.) of Title
237 19.2 the proceeds of sale shall be disposed of according to law.