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HOUSE BILL NO. 1074

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact §§ 29.1-521 and 29.1-554 of the Code of Virginia, relating to disturbing animals; certain species.

Patrons—Adams, D.M. and Levine

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 29.1-521 and 29.1-554 of the Code of Virginia are amended and reenacted 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~~ *is* 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; (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~~ *disturb* 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, an unloaded slingbow, an unloaded arrowgun, 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, slingbow, arrowgun, 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 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 (i) as provided in § 29.1-521.3 or (ii) for the killing of nuisance species as defined in § 29.1-100 on private property by the owner of such property or his designee from a stationary automobile or other stationary vehicle.

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

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59 are completely submerged at least once every 72 hours, and the Board may adopt regulations permitting
60 trappers to visit traps less frequently under specified conditions. The Board shall adopt regulations
61 permitting trappers to use remote trap-checking technology to check traps under specified conditions.

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

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

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

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

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

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

96 **§ 29.1-554. Violation of sanctuaries, refuges, preserves and water used for propagation.**

97 It shall be unlawful for any person, including a property owner, to commit the following acts, the
98 violation of which shall constitute a Class 3 misdemeanor:

99 1. To violate any regulation of the Board concerning refuges, sanctuaries and public shooting or
100 fishing preserves in impounded waters or in forest and watershed areas owned by the United States
101 government;

102 2. To damage the boundary enclosure of or enter a game refuge owned, leased or operated by the
103 Board for the purpose of ~~molesting~~ *disturbing* any bird or animal, or permit his dog or livestock to go
104 thereon;

105 3. To fish or trespass with intent to fish upon any waters or lands being utilized for fish propagation,
106 or damage or destroy any pond, pool, flume, dam, pipeline, property or appliance belonging to or being
107 utilized by the Board; or

108 4. To interfere with, obstruct, pollute, or diminish the natural flow of water into or through a fish
109 hatchery.