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HOUSE BILL NO. 1811

Offered January 11, 2023

Prefiled January 10, 2023

A BILL to amend and reenact §§ 29.1-506, 29.1-516, 29.1-529, 29.1-530.1, and 29.1-548 of the Code of Virginia, relating to hunting deer; establish continuous open season.

Patron—March

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 29.1-506, 29.1-516, 29.1-529, 29.1-530.1, and 29.1-548 of the Code of Virginia are amended and reenacted as follows:

§ 29.1-506. Prescribing seasons and bag limits for taking fish and game.

A. After careful study of each species of wild bird, animal, and fish within the jurisdiction of the Board in cities and counties of the Commonwealth, the Board shall have the power to prescribe the seasons and bag limits for hunting, fishing, trapping, or otherwise taking such wild birds, animals, and fish by regulation adopted as provided in this article.

B. Notwithstanding the provisions of this section, the Board shall not prescribe any closed season for hunting deer except as provided in § 29.1-507.

§ 29.1-516. Game animals.

The following provisions shall apply to the killing and hunting of the particular game animals listed:

Black bear. — A black bear may be killed by any person when (i) it is inflicting or attempting to inflict injury to a person or (ii) when a person is in pursuit of the bear commenced immediately after the commission of such offense. Any person killing a bear under this provision shall immediately report the killing to a state conservation police officer.

Deer. — It is unlawful for a person to kill or attempt to kill a deer in the water of any stream, lake, or pond. It is unlawful to hunt deer with dogs in the counties west of the Blue Ridge Mountains. Notwithstanding any other provision of law, there is a continuous open season for hunting deer with any weapon permitted in § 29.1-519.

Fox. — There is a continuous open season for hunting with dogs only. The hunting or pursuit of foxes shall mean the actual following of the dogs while in pursuit of a fox or foxes or the managing of the dog or dogs, including by the use of a Global Positioning System (GPS) or other electronic tracking device, while the fox or foxes are being hunted or pursued. Nothing in this section shall preclude the managing of dogs by the use of a GPS or other electronic tracking device by hunters when hunting other game animals. Foxes may be killed at any time by the owner or tenant of any land when such animals are doing damage to domestic stock or fowl.

Rabbits and squirrels. — It is unlawful to kill rabbits or squirrels during the closed season; however, the following persons may kill rabbits or squirrels for their own use during the closed season:

1. A landowner and members of his immediate family;
2. Resident members of hunt clubs who own the land in fee, either jointly or through a holding company;
3. Tenants residing on the premises, with the written permission of the landowner.

When such animals are committing substantial damage to fruit trees, gardens, crops, or other property, the owner of the premises may kill the animals or have them killed under a permit obtained from the conservation police officer.

§ 29.1-529. Killing of deer, elk or bear damaging fruit trees, crops, livestock, or personal property; wildlife creating a hazard to aircraft or motor vehicles; penalty.

A. Whenever deer, elk or bear are damaging fruit trees, crops, livestock or personal property utilized for commercial agricultural production in the Commonwealth, the owner or lessee of the lands on which such damage is done shall immediately report the damage to the Director or his designee for investigation. If after investigation the Director or his designee finds that deer or bear are responsible for the damage, he shall authorize in writing the owner, lessee or any other person designated by the Director or his designee to kill such deer or bear when they are found upon the land upon which the damages occurred. However, the Director or his designee shall have the option of authorizing nonlethal control measures rather than authorizing the killing of elk or bear, provided that such measures occur within a reasonable period of time; and whenever deer cause damage on parcels of land of five acres or less, except when such acreage is used for commercial agricultural production, the Director or his designee shall have discretion as to whether to issue a written authorization to kill the deer. The

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59 Director or his designee may limit such authorization by specifying in writing the number of animals to
60 be killed and duration for which the authorization is effective and may in proximity to residential areas
61 and under other appropriate circumstances limit or prohibit the authorization between 11:00 p.m. and
62 one-half hour before sunrise of the following day. The Director or his designees issuing these
63 authorizations shall specify in writing that only antlerless deer shall be killed, unless the Director or his
64 designee determines that there is clear and convincing evidence that the damage was done by deer with
65 antlers. Any owner or lessee of land who has been issued a written authorization shall not be issued an
66 authorization in subsequent years unless he can demonstrate to the satisfaction of the Director or his
67 designee that during the period following the prior authorization, the owner or his designee has hunted
68 bear or deer on the land for which he received a previous authorization.

69 B. Subject to the provisions of subsection A, the Director or his designee may issue a written
70 authorization to kill deer causing damage to residential plants, whether ornamental, noncommercial
71 agricultural, or other types of residential plants. The Director may charge a fee not to exceed actual
72 costs. The holder of this written authorization shall be subject to local ordinances, including those
73 regulating the discharge of firearms.

74 C. Whenever wildlife is creating a hazard to the operation of any aircraft or to the facilities
75 connected with the operation of aircraft, the person or persons responsible for the safe operation of the
76 aircraft or facilities shall report such fact to the Director or his designee for investigation. If after
77 investigation the Director or his designee finds that wildlife is creating a hazard, he shall authorize such
78 person or persons or their representatives to kill wildlife when the wildlife is found to be creating such a
79 hazard. As used in this subsection, the term "wildlife" shall not include any federally protected species.

80 D. Whenever deer are creating a hazard to the operation of motor vehicle traffic within the corporate
81 limits of any city or town, the operator of a motor vehicle or chief law-enforcement officer of the city
82 or town may report such fact to the Director or his designee for investigation. If after investigation the
83 Director or his designee finds that deer are creating a hazard within such city or town, he may authorize
84 responsible persons, or their representatives, to kill the deer when they are found to be creating such a
85 hazard.

86 E. Whenever deer are damaging property in a locality in which deer herd population reduction has
87 been recommended in the current Deer Management Plan adopted by the Board, the owner or lessee of
88 the lands on which such damage is being done may report such damage to the Director or his designee
89 for investigation. If after investigation the Director or his designee finds that deer are responsible for the
90 damage, he may authorize in writing the owner, lessee or any other person designated by the Director or
91 his designee to kill such deer when they are found upon the land upon which the damages occurred.
92 The Director or his designee also may limit such authorization by specifying in writing the number of
93 animals to be killed and the period of time for which the authorization is effective. The requirement in
94 subsection A of this section, that an owner or lessee of land demonstrate that during the period
95 following the prior authorization deer or bear have been hunted on his land, shall not apply to any
96 locality that conducts a deer population control program authorized by the Department.

97 F. The Director or his designee may revoke or refuse to reissue any authorization granted under this
98 section when it has been shown by a preponderance of the evidence that an abuse of the authorization
99 has occurred. Such evidence may include a complaint filed by any person with the Department alleging
100 that an abuse of the written authorization has occurred. Any person aggrieved by the issuance, denial or
101 revocation of a written authorization can appeal the decision to the Department. Any person convicted of
102 violating any provision of the hunting and trapping laws and regulations shall be entitled to receive
103 written authorization to kill deer or bear. However, such person shall not (i) be designated as a shooter
104 nor (ii) carry out the authorized activity for a person who has received such written authorization for a
105 period of at least two years and up to five years following his most recent conviction for violating any
106 provision of the hunting and trapping laws and regulations. In determining the appropriate length of this
107 restriction, the Director shall take into account the nature and severity of the most recent violation and
108 of any past violations of the hunting and trapping laws and regulations by the applicant. No person shall
109 be designated as a shooter under this section during a period when such person's hunting license or
110 privileges to hunt have been suspended or revoked.

111 G. The Director or his designee may authorize, subject to the provisions of this section, the killing of
112 deer over bait within the political boundaries of any *county*, city, or town; ~~or any county with a special~~
113 ~~late antlerless season~~, in the Commonwealth when requested by a certified letter from the governing
114 body of such locality.

115 H. The parts of any deer or bear killed pursuant to this section or wildlife killed pursuant to
116 subsection C shall not be used for the purposes of taxidermy, mounts, or any public display unless
117 authorized by the Director or his designee. However, the meat of any such animal may be used for
118 human consumption. The carcass and any unused meat of any such animal shall be disposed of within
119 24 hours of being killed. Any person who violates any provision of this subsection is guilty of a Class 3
120 misdemeanor.

I. It is unlawful to willfully and intentionally impede any person who is engaged in the lawful killing of a bear or deer pursuant to written authorization issued under this section. Any person convicted of a violation of this subsection is guilty of a Class 3 misdemeanor.

§ 29.1-530.1. Solid blaze orange or solid blaze pink clothing required at certain times.

A. For the purposes of this section, "solid blaze orange" means a safety orange or fluorescent orange hue and "solid blaze pink" means a safety pink or fluorescent pink hue.

B. ~~During~~ *When hunting deer with any firearms deer season*, except ~~during the special season for~~ *when hunting deer with a muzzle-loading rifle only*, in counties and cities designated by the Board, every hunter and every person accompanying a hunter shall (i) wear a solid blaze orange or solid blaze pink hat, except that the bill or brim of the hat may be a color or design other than solid blaze orange or solid blaze pink, or solid blaze orange or solid blaze pink upper body clothing that is visible from 360 degrees, (ii) display at least 100 square inches of solid blaze orange or solid blaze pink material at shoulder level within body reach visible from 360 degrees, or (iii) when hunting from an enclosed ground blind, display at least 100 square inches of solid blaze orange or solid blaze pink material visible from 360 degrees attached to or immediately above a blind.

C. ~~During the special season for~~ *When hunting deer with a muzzle-loading rifle only*, in counties and cities designated by the Board, every muzzleloader deer hunter and every person accompanying a muzzleloader deer hunter shall wear (i) a solid blaze orange or solid blaze pink hat, except that the bill or brim of the hat may be a color or design other than solid blaze orange or solid blaze pink, or (ii) solid blaze orange or solid blaze pink upper body clothing, either of which shall be visible from 360 degrees, unless such person is physically located in a tree stand or other stationary hunting location.

D. Any person violating the provisions of this section shall, upon conviction, pay a fine of \$25.

E. Violations of this section shall not be admissible in any civil action for personal injury or death as evidence of negligence, contributory negligence, or assumption of the risk.

F. This section shall not apply when (i) hunting waterfowl from stationary or floating blinds, (ii) hunting waterfowl over decoys, (iii) hunting waterfowl in wetlands as defined in § 28.2-1300, (iv) hunting waterfowl from a boat or other floating conveyance, (v) hunting doves, (vi) participating in hunting dog field trials permitted by the Board, (vii) on horseback while hunting foxes with hounds but without firearms, or (viii) hunting with a bow and arrow in areas where the discharge of firearms is prohibited by state law or local ordinance.

§ 29.1-548. Killing deer illegally; penalties.

Any person killing a deer in violation of Board regulations, or who exceeds the bag limit for deer, or who kills a deer during ~~the a~~ closed season ~~shall be pursuant to § 29.1-507 is~~ guilty of a Class 2 misdemeanor. However, any person who kills a deer illegally during the open season ~~shall be is~~ guilty of a Class 3 misdemeanor if such person immediately delivers the complete carcass in good condition to the conservation police officer of the county or city in which it was killed. At that time, it shall be confiscated and disposed of by the conservation police officer or as otherwise provided. Any such person delivering such carcass to the conservation police officer shall be exempt from replacement cost as provided in § 29.1-551.