

HOUSE BILL NO. 725

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on _____

on _____)

(Patron Prior to Substitute--Delegate Gooditis)

A BILL to amend and reenact §§ 29.1-521 and 29.1-553 of the Code of Virginia, relating to hunting with steel-jawed traps; prohibition; penalty.

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 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 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 harass 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.

27 3. To hunt or attempt to kill or trap any species of wild bird or wild animal after having obtained
28 the daily bag or season limit during such day or season. However, any properly licensed person, or a
29 person exempt from having to obtain a license, who has obtained such daily bag or season limit while
30 hunting may assist others who are hunting game by calling game, retrieving game, handling dogs, or
31 conducting drives if the weapon in his possession is an unloaded firearm, a bow without a nocked arrow,
32 an unloaded slingbow, an unloaded arrowgun, or an unloaded crossbow. Any properly licensed person, or
33 person exempt from having to obtain a license, who has obtained such season limit prior to commencement
34 of the hunt may assist others who are hunting game by calling game, retrieving game, handling dogs, or
35 conducting drives, provided he does not have a firearm, bow, slingbow, arrowgun, or crossbow in his
36 possession.

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

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

46 6. To shoot or attempt to take any wild bird or wild animal from an automobile or other vehicle,
47 except (i) as provided in § 29.1-521.3 or (ii) for the killing of nuisance species as defined in § 29.1-100
48 on private property by the owner of such property or his designee from a stationary automobile or other
49 stationary vehicle.

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

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

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

60 10. To trap with any size steel-jawed trap. However, this prohibition shall not apply to (i) any
61 official or agent of a federal, state, or local government entity; (ii) a scientist affiliated with an institution
62 of higher education or nonprofit entity performing bona fide wildlife research or endangered species
63 protection; or (iii) the owner or lessee of private property used primarily for commercial livestock or crop
64 production, or an employee of such owner or lessee, so long as the owner or lessee can present onsite
65 evidence to the Department, upon request, that ongoing damage to livestock or crops has not been
66 alleviated by the use of other lethal or nonlethal permitted means of control.

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

76 ~~11.~~ 12. To offer for sale, sell, offer to purchase, or purchase, at any time or in any manner, any
77 wild bird or wild animal or the carcass or any part thereof, except as specifically permitted by law,
78 including subsection D of § 29.1-553. However, any nonprofit organization exempt from taxation under
79 § 501(c)(3) of the Internal Revenue Code that is (i) organized to provide wild game as food to the hungry

80 and (ii) authorized by the Department to possess, transport, and distribute donated or unclaimed meat to
 81 the hungry may pay a processing fee in order to obtain such meat. Such fee shall not exceed the actual
 82 cost for processing the meat. In addition, any nonprofit organization exempt from taxation under §
 83 501(c)(3) of the Internal Revenue Code that is (a) organized to support wildlife habitat conservation and
 84 (b) approved by the Department shall be allowed to offer wildlife mounts that have undergone the
 85 taxidermy process for sale in conjunction with fundraising activities. A violation of this subdivision shall
 86 be punishable as provided in § 29.1-553.

87 ~~12-13.~~ To offer for sale, sell, offer to purchase, or purchase a hunt guaranteeing the killing of a
 88 deer, bear, or wild turkey. Nothing in this subdivision shall prevent a landowner from leasing land for
 89 hunting. A violation of this subdivision shall be punishable as provided in § 29.1-553.

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

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

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

102 D. A violation of subdivisions A 1 through ~~10~~ shall be 11 is punishable as a Class 3 misdemeanor.

103 **§ 29.1-553. Selling or offering for sale; penalty.**

104 A. Any person who offers for sale, sells, offers to purchase, or purchases any wild bird or wild
 105 animal, or any part thereof, or any freshwater fish, except as provided by law, shall be guilty of a Class 1

106 misdemeanor. However, when the aggregate of such sales or purchases, or any combination thereof, by
107 any person totals \$1,000 or more during any 90-day period, that person shall be guilty of a Class 6 felony.

108 B. Whether or not criminal charges have been placed, when any property is taken possession of by
109 a conservation police officer for the purpose of being used as evidence of a violation of this section or for
110 confiscation, the conservation police officer making such seizure shall immediately report the seizure to
111 the Attorney for the Commonwealth.

112 C. In any prosecution for a violation of this section, photographs of the wild bird, wild animal, or
113 any freshwater fish, or any part thereof shall be deemed competent evidence of such wild bird, wild animal,
114 or freshwater fish, or part thereof and shall be admissible in any proceeding, hearing, or trial of the case
115 to the same extent as if such wild bird, wild animal, or any freshwater fish, or part thereof had been
116 introduced as evidence. Such photographs shall bear a written description of the wild bird, wild animal,
117 or freshwater fish, or parts thereof, the name of the place where the alleged offense occurred, the date on
118 which the alleged offense occurred, the name of the accused, the name of the arresting officer or
119 investigating officer, the date of the photograph, and the name of the photographer. The photographs shall
120 be identified by the signature of the photographer.

121 D. Any licensed Virginia auctioneer or licensed auction firm that sells, as a legitimate item of an
122 auction sale, wildlife mounts that have undergone the taxidermy process, shall be exempt from the
123 provisions of this section and subdivision A-~~11~~ 12 of § 29.1-521.

124 #