

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 Senate Bill No. 258 entitled “An act relating to the management of fish and
4 wildlife” respectfully reports that it has considered the same and recommends
5 that the bill be amended by striking out all after the enacting clause and
6 inserting in lieu thereof the following:

7 * * * Fish and Wildlife Board; Governance * * *

8 Sec. 1. 10 V.S.A. §§ 4041 and 4042 are amended to read:

9 § 4041. DEPARTMENT OF FISH AND WILDLIFE; FISH AND WILDLIFE
10 BOARD; MEMBERS, TERM, CHAIR

11 (a) There is hereby established a Department of Fish and Wildlife ~~that shall~~
12 ~~be administered by the Commissioner.~~ The Department shall be under the
13 direction and supervision of a Commissioner appointed by the Secretary as
14 provided in 3 V.S.A. § 2851. In addition to the duties and powers provided
15 under this chapter, the Commissioner shall have the powers and duties
16 specified in 3 V.S.A. § 2852 and such additional duties as may be assigned to
17 the Commissioner by the Secretary under 3 V.S.A. § 2853. The Commissioner
18 shall implement the policy and purposes specified in section 4081 of this title
19 where appropriate and to the extent that resources of the Department permit.

1 (b)(1) There is hereby established a Fish and Wildlife Board. The purpose
2 of the Board shall be to serve in an advisory capacity to the Department of Fish
3 and Wildlife in the establishment of Department policy and rules.

4 (2) The Board shall consist of **14 15** members, **one from each county,**
5 ~~appointed by the Governor with the advice and consent of the Senate~~ **and one**
6 **at large member.** Five members of the Board shall be appointed by the
7 Commissioner, five members of the Board shall be appointed by the Speaker
8 of the House, and five members of the Board shall be appointed by the
9 Committee on Committees. The members of the Board shall be appointed for
10 a term of six years, or the unexpired portion thereof, and during their terms **the**
11 **14 members appointed by county** shall reside in the county from which they
12 are appointed. In the event a member **resigns or** no longer resides in the
13 county from which ~~he or she~~ **the member** was appointed, the **Governor**
14 **authority that appointed the member** shall appoint a **new** member from that
15 county for the unexpired portion of the term. Appointments shall be made in
16 such a manner that either two or three terms shall expire each year. A member
17 serving a full six-year term shall not be eligible for reappointment. The
18 ~~Governor~~ Commissioner shall biennially designate a chair.

19 (3) In order to be appointed to the Board, a person shall apply in writing
20 to the appointing authority. The appointing authority shall acknowledge, in
21 writing, the receipt of each application.

1 (4) In considering applicants to the Board, the appointing authority shall
2 give due consideration to:

3 (A) the need for the Board members to have a history of involvement
4 with and dedication to fish and wildlife, including a knowledge of fish and
5 wildlife biology, ecology, and the ethics of fish and wildlife management;

6 (B) the need for the Board to have a balanced representation and
7 include members of the public representing both licensed users and
8 nonlicensed users of wildlife; and

9 (C) coordinating their appointments to ensure the appropriate
10 composition of the board as required by this subsection (b).

11 (5) As used in this subsection:

12 (A) “licensed user of wildlife” means a person who has held a
13 Vermont hunting, fishing, or trapping license in the previous five years prior to
14 appointment; and

15 (B) “nonlicensed user of wildlife” means a person who has not held a
16 Vermont hunting, fishing, or trapping license in the previous five years prior to
17 appointment.

18 (c) Upon appointment, each Board member shall receive training from the
19 Department on wildlife biology, coexistence with wildlife, ethics, the reduction
20 of conflict between humans and wildlife, and the impacts of climate change on
21 fish and wildlife.

1 (d) Upon the filing of a proposed rule with the Secretary of State pursuant
2 to 3 V.S.A. § 838, the Department shall submit the proposed rule to the Board
3 for its review. After a public hearing and an opportunity for the public to
4 submit written comments, the Board shall consider whether a proposed rule is
5 designed to maintain the best health, population, viewing opportunities, and
6 utilization levels of the regulated species and of other necessary or desirable
7 species that are ecologically related to the regulated species and whether the
8 rules are adequately supported by investigation and research conducted by the
9 Department. If the Board, by majority vote, determines that a proposed rule
10 should be revised, it shall submit a written report to the Department setting
11 forth its recommended revisions, and the reasons therefore, within 60 days
12 following its receipt of a proposed rule. The Board shall include with its report
13 the public comments it received. The Department shall consider fully any
14 recommendations by the Board. If the Board's recommendations are not
15 included in the rule, the Department shall issue a written explanation of why it
16 did not include the Board's recommendations in the rule. The Board's written
17 report and the Department's response thereto shall be included with the
18 materials submitted to the Legislative Committee on Administrative Rules
19 under 3 V.S.A. § 841.

1 § 4042. ~~COMMISSIONER; APPOINTMENT~~

2 ~~The Commissioner shall be appointed pursuant to the provisions of 3~~
3 ~~V.S.A. § 2851. The Commissioner shall also be Executive Secretary of the~~
4 ~~Board. [Repealed.]~~

5 Sec. 2. 10 V.S.A. § 4081 is amended to read:

6 § 4081. POLICY

7 (a)(1) As provided by Chapter II, § 67 of the Constitution of the State of
8 Vermont, the fish and wildlife of Vermont are held in trust by the State for the
9 benefit of the citizens of Vermont and shall not be reduced to private
10 ownership. The State of Vermont, in its sovereign capacity as a trustee for the
11 citizens of the State, shall have ownership, jurisdiction, and control of all of the
12 fish and wildlife of Vermont.

13 (2) The Commissioner of Fish and Wildlife shall manage and regulate
14 the fish and wildlife of Vermont in accordance with the requirements of this
15 part ~~and the rules of the Fish and Wildlife Board, including the Department of~~
16 Fish and Wildlife rules on Non-game Management as set forth in Code of
17 Vermont Rules 12-010-028. ~~The protection, propagation control,~~
18 ~~management, and conservation of fish, wildlife, and fur-bearing animals in this~~
19 ~~State are in the interest of the public welfare. It is in the public welfare to~~
20 protect, manage, and conserve the fish and wildlife of the State and the habitats
21 in which they reside. The State, through the Commissioner of Fish and

1 Wildlife, shall safeguard the fish, and wildlife, and fur-bearing animals of the
2 State for the people of the State, and the State shall fulfill this duty with a
3 constant and continual vigilance.

4 (3) The Commissioner shall commence rulemaking to develop the
5 nongame wildlife plan required by subsection 4048(d) of this title not later
6 than July 1, 2024 and shall complete rulemaking not later than September 1,
7 2025. In so doing, the Commissioner shall work to harmonize provisions of all
8 Fish and Wildlife rules to realize the public interest in the sound management
9 of game and nongame species according to ecological principles supported by
10 the best science available through Department and peer reviewed research.

11 ~~(b) Notwithstanding the provisions of 3 V.S.A. § 2803, the Fish and~~
12 ~~Wildlife Board shall be the State agency charged with carrying out the~~
13 ~~purposes of this subchapter.~~

14 ~~(e) An abundant, A healthy deer herd is a primary goal~~ one of the most
15 important goals of fish and wildlife management. The use of a limited unit
16 open season on antlerless deer shall be implemented only after a scientific
17 game management study by the Department of Fish and Wildlife supports such
18 a season.

19 ~~(d)~~(c) Annually, the Department shall update a scientific management
20 study of the State deer herd. The study shall consider data provided by

1 Department biologists and citizen testimony taken under subsection ~~(f)~~(e) of
2 this section.

3 ~~(e)~~(d) Based on the results of the updated management study and citizen
4 testimony, the ~~Board~~ Department shall decide whether an antlerless deer
5 hunting season is necessary and, if so, how many permits are to be issued. If
6 the ~~Board~~ Department determines that an antlerless season is necessary, it shall
7 adopt a rule creating one and the Department shall then administer an
8 antlerless program.

9 ~~(f)~~(e) Annually, the Department shall hold regional public hearings to
10 receive testimony and data from concerned citizens about their knowledge and
11 concerns about the deer herd. The ~~Board~~ Department shall identify the regions
12 by rule.

13 ~~(g)~~(f) If the ~~Board~~ Department finds that an antlerless season is necessary
14 to maintain the health and size of the herd, the Department shall administer an
15 antlerless deer program. Annually, the ~~Board~~ Department shall determine how
16 many antlerless permits to issue in each wildlife management unit. For a
17 nonrefundable fee of \$10.00 for residents and \$25.00 for nonresidents, a
18 person may apply for a permit. Each person may submit only one application
19 for a permit. The Department shall allocate the permits in the following
20 manner:

1 (1) A Vermont landowner, as defined in section 4253 of this title, who
2 owns 25 or more contiguous acres and who applies shall receive a permit for
3 antlerless hunting in the management unit on which the land is located before
4 any are given to people eligible under subdivision (2) of this subsection. If the
5 land is owned by more than one individual, corporation, or other entity, only
6 one permit shall be issued. Landowners applying for antlerless permits under
7 this subdivision shall not, at the time of application or thereafter during the
8 regular hunting season, post their lands except under the provisions of section
9 4710 of this title. As used in this section, “post” means any signage that would
10 lead a reasonable person to believe that hunting is restricted on the land. If the
11 number of landowners who apply exceeds the number of permits for that
12 district, the Department shall award all permits in that district to landowners by
13 lottery.

14 (2) Permits remaining after allocation pursuant to subdivision (1) of this
15 subsection shall be issued by lottery.

16 (3) Any permits remaining after permits have been allocated pursuant to
17 subdivisions (1) and (2) of this subsection shall be issued by the Department
18 for a \$10.00 fee for residents. Ten percent of the remaining permits may be
19 issued to nonresident applicants for a \$25.00 fee.

1 Sec. 3. 10 V.S.A. § 4082 is amended to read:

2 § 4082. VERMONT FISH AND WILDLIFE REGULATIONS

3 (a) The ~~Board~~ Department may adopt rules, under 3 V.S.A. chapter 25, to
4 be known as the “Vermont Fish and Wildlife Regulations” for the regulation of
5 fish and wild game and the taking thereof except as otherwise specifically
6 provided by law. The rules shall be designed to maintain the best health,
7 population, and utilization levels of the regulated species and of other
8 necessary or desirable species that are ecologically related to the regulated
9 species. The rules shall be supported by ~~investigation and research conducted~~
10 ~~by the Department on behalf of the Board~~ the best science available through
11 Department and peer reviewed research.

12 (b)(1) Except as provided for under subdivision (2) of this subsection, the
13 ~~Board~~ Department annually may adopt rules relating to the management of
14 migratory game birds; and shall follow the procedures for rulemaking
15 contained in 3 V.S.A. chapter 25. For each ~~such~~ rule, the ~~Board~~ Department
16 shall conduct a hearing but, when necessary, may schedule the hearing for a
17 day before the terms of the rule are expected to be determined.

18 (2) Beginning with the 2015 hunting season, the ~~Board~~ Department may
19 set by procedure the daily bag and possession limits of migratory game birds
20 that may be harvested in each Waterfowl Hunting Zone annually without
21 following the procedures for rulemaking contained in 3 V.S.A. chapter 25.

1 The annual daily bag and possession limits of migratory game birds shall be
2 consistent with federal requirements. Prior to setting the migratory game bird
3 daily bag and possession limits, the ~~Board~~ Department shall provide a period
4 of not less than 30 days of public notice and shall conduct at least two public
5 informational hearings. The final migratory game bird daily bag and
6 possession limits shall be enforceable by the Department under its enforcement
7 authority in part 4 of this title.

8 (c) The ~~Board~~ Department may set by procedure the annual number of
9 antlerless deer that can be harvested in each Wildlife Management Unit and the
10 annual number of moose that can be harvested in each Wildlife Management
11 Unit without following the procedures for rulemaking contained in 3 V.S.A.
12 chapter 25. The annual numbers of antlerless deer and moose that can be
13 harvested shall be supported by investigation and research conducted by the
14 Department ~~on behalf of the Board~~. Prior to setting the antlerless deer and
15 moose permit numbers, the ~~Board~~ Department shall provide a period of not
16 less than 30 days of public notice and shall conduct at least three public
17 informational hearings. The public informational hearings may be conducted
18 simultaneously with the regional antlerless deer meetings required by
19 10 V.S.A. App. § 2b. The final annual antlerless deer and moose harvest
20 permit numbers shall be enforceable by the Department under its enforcement
21 authority in part 4 of this title. The final annual antlerless deer and moose

1 harvest permit numbers shall be reported to the House Committee on
2 Environment and Energy and the Senate Committee on Natural Resources and
3 Energy as part of the annual deer report required under section 4084 of this
4 title. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall
5 not apply to the report to be made under this subsection.

6 Sec. 4. 10 V.S.A. § 4601 is amended to read:

7 § 4601. TAKING FISH; POSSESSION

8 A person shall not take fish, except in accordance with this part and
9 regulations of the ~~Board~~ Department, or possess a fish taken in violation of this
10 part or regulations of the ~~Board~~ Department.

11 Sec. 5. 3 V.S.A. § 2803 is amended to read:

12 § 2803. ADVISORY CAPACITY

13 (a) All boards, committees, councils, activities, and departments ~~which~~ that
14 under this chapter are a part of the Agency shall be advisory only, except as
15 hereinafter provided, and the powers and duties of such boards, committees,
16 councils, activities, and departments, including administrative, policy making,
17 rulemaking, and regulatory functions, shall vest in and be exercised by the
18 Secretary of the Agency.

19 (b) Notwithstanding subsection (a) of this section or any other provision of
20 this chapter, ~~the Fish and Wildlife Board and the Natural Resources Board~~
21 shall retain and exercise all powers and functions given to ~~them~~ it by law

1 ~~which~~ that are of regulatory or quasi-judicial nature, including the power to
2 adopt, amend, and repeal rules and regulations; ~~to~~ to conduct hearings; ~~to~~
3 adjudicate controversies; ~~and~~ and to issue and enforce orders, in the manner and to
4 the extent to which those powers are given to ~~those respective boards~~ the
5 Board by law.

6 Sec. 6. CONFORMING REVISIONS

7 When preparing the Vermont Statutes Annotated for publication, the Office
8 of Legislative Counsel shall make the following revisions throughout the
9 statutes as needed for consistency with Secs. 1–5 of this act, provided the
10 revisions have no other effect on the meaning of the affected statutes:

11 (1) replace “Board” with “Department” in 10 V.S.A. §§ 4605, 4701,
12 4702, 4742a, 4828, 4830, 4861, 4902, and 5001; and

13 (2) revisions that are substantially similar to those described in
14 subdivision (1) of this section.

15 Sec. 7. TRANSITION

16 (a) The Vermont Fish and Wildlife regulations adopted by the Fish and
17 Wildlife Board and in effect as of the effective date of this act shall remain in
18 effect and have the full force and effect of law until such time as they are
19 repealed or amended by the General Assembly by legislative act or by the
20 Department of Fish and Wildlife pursuant to 3 V.S.A. chapter 25.

1 animals, whether they result in the taking or not; and shall include every
2 attempt to take and every act of assistance to every other person in taking or
3 attempting to take fish or wild animals, provided that when taking is allowed
4 by law, reference is had to taking by lawful means and in a lawful manner.

5 * * *

6 (42) “Trapping” means to take or attempt to take fur-bearing animals
7 with traps including the dispatching of lawfully trapped fur-bearing animals.

8 Sec. 9. 10 V.S.A. § 4866 is added to read:

9 § 4866. SETBACKS; TRAPPING

10 (a) As used in this section, “trail” means a path or corridor open to the
11 public or any other area where persons may reasonably be expected to recreate,
12 including all areas used for nonmotorized recreational purposes such as hiking,
13 walking, bicycling, cross-country skiing, horseback riding, and other similar
14 activities.

15 (b) No foothold trap or body-gripping trap shall be set on or within 50 feet
16 of a trail, class 4 road, playground, park, or other public location where a
17 person may reasonably be expected to recreate, including when the trap is set
18 in water or under the ice.

19 Sec. 10. REPEAL; FISH AND WILDLIFE REGULATIONS; TRAPPING

20 The following subsections of 10 V.S.A. App. § 44 (furbearing species) are
21 repealed:

1 Sec. 13. EFFECTIVE DATE

2 This act shall take effect on passage.

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9 (Committee vote: _____)

10

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Senator _____

12

FOR THE COMMITTEE