

1 H.91

2 Introduced by Representatives Deen of Westminster, Webb of Shelburne,
3 Andrews of Rutland City, Atkins of Winooski, Bohi of
4 Hartford, Botzow of Pownal, Branagan of Georgia, Browning
5 of Arlington, Consejo of Sheldon, Dickinson of St. Albans
6 Town, Donahue of Northfield, Donovan of Burlington, Evans
7 of Essex, Fisher of Lincoln, Gilbert of Fairfax, Grad of
8 Moretown, Helm of Fair Haven, Jerman of Essex, Keenan of
9 St. Albans City, Kitzmiller of Montpelier, Klein of East
10 Montpelier, Koch of Barre Town, Krebs of South Hero, Lenes
11 of Shelburne, Martin of Wolcott, McCullough of Williston,
12 Mrowicki of Putney, Nease of Johnson, Potter of Clarendon,
13 Pugh of South Burlington, Taylor of Barre City, Till of Jericho,
14 Townsend of Randolph, Waite-Simpson of Essex and Wilson of
15 Manchester

16 Referred to Committee on

17 Date:

18 Subject: Fish and wildlife; management of wildlife

19 Statement of purpose: This bill proposes to declare that the fish and wildlife of
20 Vermont are held in trust by the state for the benefit of the citizens of Vermont
21 and shall not be reduced to private ownership. The bill would also declare that

1 the fish and wildlife of Vermont are owned and controlled by the state in its
2 sovereign capacity as the trustee for the citizens of the state. The bill would
3 repeal the regulatory authority of the agency of agriculture, food and markets
4 over the wild cervidae at a captive cervidae farm in Irasburg. Regulatory
5 authority over the wild cervidae at the Irasburg facility would be transferred to
6 the department of fish and wildlife. In addition, the bill would make
7 permanent the transfer to the fish and wildlife board of regulatory authority
8 over the state deer herd by repealing the reversion of such authority to the
9 general assembly.

10 An act relating to the management of fish and wildlife

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. FINDINGS

13 The general assembly finds and declares:

14 (1) The protection, propagation, control, management, and conservation
15 of the wildlife of Vermont are in the best interest of the public.

16 (2) Exposure of wildlife to domestic animals, as that term is defined in
17 6 V.S.A. § 1151, increases the risk that a disease or parasite, such as chronic
18 wasting disease, is introduced into or spread to the wildlife of Vermont.

1 (3) To prevent the introduction or spread of a disease or parasite to the
2 wildlife of Vermont, white-tailed deer and moose should not be entrapped in
3 facilities that contain domestic animals.

4 (4) If white-tailed deer or moose is entrapped in a facility that contains
5 domestic animals, the owner of the facility should consult with the department
6 of fish and wildlife or the agency of agriculture, food and markets in order to
7 determine the best method for complying with relevant state rules regarding
8 removal of the entrapped white-tailed deer or moose.

9 (5) To preserve the health of the wildlife of Vermont, all owners of
10 facilities with domestic animals should remove entrapped white-tailed deer or
11 moose and work to prevent future entrapment.

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

13 § 4081. POLICY

14 (a) ~~It is the policy of the state that the~~ (1) As provided by Chapter II,
15 Article 67 of the Vermont Constitution, the fish and wildlife of Vermont are
16 held in trust by the state for the benefit of the citizens of Vermont and shall not
17 be reduced to private ownership. The state of Vermont, in its sovereign
18 capacity as a trustee for the citizens of the state, shall have ownership,
19 jurisdiction, and control of all of the fish and wildlife of Vermont.

20 (2) The commissioner of fish and wildlife shall manage and regulate the
21 fish and wildlife of Vermont in accordance with the requirements of this part

1 and the rules of the fish and wildlife board. The protection, propagation
2 control, management, and conservation of fish, wildlife, and fur-bearing
3 animals in this state is in the interest of the public welfare, and ~~that~~
4 ~~safeguarding of the state, through the commissioner of fish and wildlife, shall~~
5 safeguard this valuable resource for the people of the state requires a constant
6 and continual vigilance.

7 (b) Notwithstanding the provisions of ~~section 2803 of Title 3 V.S.A.~~
8 § 2803, the fish and wildlife board shall be the state agency charged with
9 carrying out the purposes of this subchapter.

10 (c) An abundant, healthy deer herd is a primary goal of fish and wildlife
11 management. The use of a limited unit open season on antlerless deer shall be
12 implemented only after a scientific game management study by the fish and
13 wildlife department supports such a season.

14 (d) Annually, the department shall update a scientific management study of
15 the state deer herd. The study shall consider data provided by department
16 biologists and citizen testimony taken under subsection (f) of this section.

17 (e) Based on the results of the updated management study and citizen
18 testimony, the board shall decide whether an antlerless deer hunting season is
19 necessary and if so how many permits are to be issued. If the board determines
20 that an antlerless season is necessary, it shall adopt a rule creating one and the
21 department shall then administer an antlerless program.

1 (f) Annually, the department shall hold regional public hearings to receive
2 testimony and data from concerned citizens about their knowledge and
3 concerns about the deer herd. The board shall identify the regions by rule.

4 (g) If the board finds that an antlerless season is necessary to maintain the
5 health and size of the herd, the department shall administer an antlerless deer
6 program. Annually, the board shall determine how many antlerless permits to
7 issue in each wildlife management unit. For a nonrefundable fee of \$10.00 for
8 residents and \$25.00 for nonresidents a person may apply for a permit. Each
9 person may submit only one application for a permit. The department shall
10 allocate the permits in the following manner:

11 (1) A Vermont landowner, as defined in section 4253 of this title, who
12 owns 25 or more contiguous acres and who applies shall receive a permit for
13 antlerless hunting in the management unit on which the land is located before
14 any are given to people eligible under subdivision (2) of this subsection. If the
15 land is owned by more than one individual, corporation or other entity, only
16 one permit shall be issued. Landowners applying for antlerless permits under
17 this subdivision shall not, at the time of application or thereafter during the
18 regular hunting season, post their lands except under the provisions of section
19 4710 of this title. If the number of landowners who apply exceeds the number
20 of permits for that district, the department shall award all permits in that
21 district to landowners by lottery.

1 Sec. 4. REPEAL OF TRANSFER OF REGULATORY AUTHORITY OVER
2 CAPTIVE CERVIDAE FACILITY

3 Sec. E.702.1 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) (transfer
4 of regulatory oversight over captive cervidae facility to the agency of
5 agriculture, food and markets) is repealed.

6 Sec. 5. TRANSITION

7 (a) For purposes of this section, “relevant captive hunt facility” shall mean
8 a captive cervidae facility subject to the requirements of Sec. E.702.1 of
9 No. 156 of the Acts of the 2009 Adj. Sess. (2010) prior to repeal under Sec. 3
10 of this act.

11 (b) Upon repeal of Sec. E.702.1 of No. 156 of the Acts of the 2009 Adj.
12 Sess. (2010) under Sec. 3 of this act, the jurisdiction and regulatory authority
13 over a relevant captive hunt facility is transferred from the agency of
14 agriculture, food and markets to the department of fish and wildlife.

15 (c) Upon transfer of jurisdiction and regulatory authority to the department
16 of fish and wildlife under subsection (b) of this section, a relevant captive hunt
17 facility shall be required to comply with the department of fish and wildlife’s
18 rule governing the importation and possession of animals for taking by
19 hunting, except that:

20 (1) upon transfer of regulatory authority to the department of fish and
21 wildlife, a relevant captive hunt facility that is complying with the

1 requirements of Sec. E.702.1 of No. 156 of the Acts of the 2009 Adj. Sess.
2 (2010) and the agency of agriculture, food and markets' rules governing
3 captive cervidae shall be deemed to be in substantial compliance with the
4 department of fish and wildlife's rule governing the importation and
5 possession of animals for taking by hunting;

6 (2) wild cervidae entrapped at the captive facility shall remain at the
7 facility until the owner of a relevant captive hunt facility and the commissioner
8 of fish and wildlife agree to a final disposition of the wild cervidae entrapped
9 at the facility;

10 (3) the owner of a relevant captive hunt facility shall not allow wild
11 cervidae at the facility to escape or be released from the facility;

12 (4) the wild cervidae entrapped at a relevant captive hunt facility shall
13 be subject to hunt during an applicable season set by the fish and wildlife
14 board, provided that no fee is charged for the right to hunt wild cervidae
15 entrapped in the facility and provided that the owner of the facility may post
16 his or her land according to 10 V.S.A. § 5201 and may restrict access for
17 hunting to the facility.

18 Sec. 6. EFFECTIVE DATE

19 (a) This section and Secs. 1 (findings), 4 (repeal of transfer of regulatory
20 authority over captive cervidae facility) and 5 (transition of regulatory

1 authority over captive cervidae facility) of this act shall take effect upon
2 passage.

3 (b) Secs. 2 (policy for management of fish and wildlife) and 3 (repeal of
4 dormant deer herd management statutes) shall take effect on July 1, 2011.