

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

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

7 Sec. 3. REPEAL OF DORMANT STATUTORY REQUIREMENTS FOR
8 MANAGEMENT OF THE DEER HERD

9 (a) 10 V.S.A. §§ 4743 (relating to muzzle loader season), 4744 (relating to
10 bow and arrow season), and 4753 (relating to annual deer limit), as suspended
11 by Sec 5(a) of No. 136 of the Acts of the 2003 Adj. Sess. (2004) § 5(a) and by
12 Sec. 2 of No. 97 of the Acts of the 2007 Adj. Sess (2008), shall be repealed
13 July 1, 2011.

14 (b) Sec. 7(c) (repeal of transfer to the fish and wildlife board of
15 management authority over deer herd) of No. 136 of the Acts of the 2003 Adj.
16 Sess. (2004), as amended by No. 97 of the Acts of the 2007 Adj. Sess (2008),
17 shall be repealed July 1, 2011.

~~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~~

~~requirements of Sec. E.702.1 of No. 156 of the Acts of the 2009 Adj. Sess.~~

~~(2010) and the agency of agriculture, food and markets' rules governing captive cervidae shall be deemed to be in substantial compliance with the department of fish and wildlife's rule governing the importation and possession of animals for taking by hunting;~~

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

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

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

Sec. 6. EFFECTIVE DATE

~~(a) This section and Secs. 1 (findings), 4 (repeal of transfer of regulatory 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.~~

Sec. 1. FINDINGS

The general assembly finds and declares:

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

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

(3) To prevent the introduction or spread of a disease or parasite to the wildlife of Vermont, white-tailed deer and moose should not be entrapped in captive cervidae facilities.

(4) If a white-tailed deer or moose is entrapped in a facility that contains domestic animals, existing rules require the facility owner to consult with the department of fish and wildlife in order to determine the best method for removal of the entrapped white-tailed deer or moose.

(5) To preserve the health of the wildlife of Vermont, all owners of captive cervidae facilities should be required to remove entrapped white-tailed deer or moose, and such facilities should be required to take the necessary measures to prevent future entrapment of white-tailed deer or moose.

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

§ 4081. POLICY

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

(2) The commissioner of fish and wildlife shall manage and regulate the fish and wildlife of Vermont in accordance with the requirements of this part and the rules of the fish and wildlife board. The protection, propagation control, management, and conservation of fish, wildlife, and fur-bearing

~~animals in this state is~~ are in the interest of the public welfare, and that safeguarding of this valuable resource. The state, through the commissioner of fish and wildlife, shall safeguard the fish, wildlife, and fur-bearing animals of the state for the people of the state requires, and the state shall fulfill this duty with a constant and continual vigilance.

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

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

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

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

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

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

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

of permits for that district, the department shall award all permits in that district to landowners by lottery.

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

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

Sec. 3. REPEAL OF DORMANT STATUTORY REQUIREMENTS FOR MANAGEMENT OF THE DEER HERD

(a) 10 V.S.A. §§ 4743 (relating to muzzle loader season), 4744 (relating to bow and arrow season), and 4753 (relating to annual deer limit), as suspended by Sec. 5(a) of No. 136 of the Acts of the 2003 Adj. Sess. (2004), § 5(a) and by Sec. 2 of No. 97 of the Acts of the 2007 Adj. Sess. (2008), shall be repealed July 1, 2011.

(b) Sec. 7(d) (repeal of transfer to the fish and wildlife board of management authority over deer herd) of No. 136 of the Acts of the 2003 Adj. Sess. (2004), as amended by No. 97 of the Acts of the 2007 Adj. Sess. (2008), shall be repealed July 1, 2011.

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

Sec. E.702.1 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) (transfer of regulatory oversight over captive cervidae facility and the white-tailed deer or moose entrapped within it to the agency of agriculture, food and markets) is repealed.

Sec. 5. TRANSITION

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

(b) Upon repeal of Sec. E.702.1 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) under Sec. 4 of this act, the jurisdiction and regulatory authority over a relevant captive cervidae facility and the white-tailed deer and moose entrapped within it are transferred from the agency of agriculture, food and markets to the department of fish and wildlife.

(c) Upon transfer of jurisdiction and regulatory authority to the department of fish and wildlife under subsection (b) of this section, a relevant captive cervidae facility shall be regulated as a captive hunt facility under the fish and

wildlife board's rule governing the importation and possession of animals for taking by hunting as set forth in 10 V.S.A. App. § 19, except that:

(1) For purposes of review of an application for a permit submitted under subsection (d) of this section, demonstrated compliance by a relevant captive cervidae facility with the requirements of Sec. E.702.1 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) or the agency of agriculture, food and markets' rules governing captive cervidae shall be deemed as substantial compliance with comparable provisions of the department of fish and wildlife rules governing the importation and possession of animals for taking by hunting.

(2) The wild cervidae entrapped at a relevant captive cervidae facility may remain at the facility, provided that:

(A) The white-tailed deer and moose entrapped at the facility shall be subject to hunt during an applicable open season or seasons established by the fish and wildlife board;

(B) The fish and wildlife board shall adopt by rule a process by which the number of white-tailed deer and moose entrapped within the relevant captive hunt facility is reduced to zero by taking, as that term is defined in 10 V.S.A. § 4001, over a five-year period from September 1, 2011. The rule adopted by the fish and wildlife board under this subdivision shall specify:

(i) The number and type of white-tailed deer or moose to be taken in any season set by the board for the relevant captive hunt facility, subject to the following:

(I) The number of white-tailed deer or moose authorized for taking should be reasonably equal in each of the five years from September 1, 2011, provided that all white-tailed deer or moose remaining at the facility in the fifth year shall be authorized for taking;

(II) In each year of the five-year period, the owner of the relevant captive cervidae facility shall present to the department of fish and wildlife for disease surveillance at least the number of white-tailed deer and moose authorized for taking by the fish and wildlife board under this subdivision (C)(2)(B)(i).

(ii) The process and protocol for a disease surveillance program at the relevant captive cervidae facility.

(B) The fish and wildlife board shall adopt by rule a process by which the number of white-tailed deer and moose entrapped within the relevant captive hunt facility is reduced to zero by taking, as that term is defined in 10 V.S.A. § 4001, over a five-year period from September 1, 2011.

The rule adopted by the fish and wildlife board under this subdivision shall specify:

(i) The number and type of white-tailed deer or moose to be taken in any season set by the board for the relevant captive hunt facility, subject to the following:

(I) The board shall not authorize the hunting or killing of the moose known as Pete and may authorize the relocation or transfer of such moose to an adequate facility;

(II) The number of white-tailed deer or moose authorized for taking should be reasonably equal in each of the five years from September 1, 2011, provided that all white-tailed deer or moose remaining at the facility in the fifth year shall be authorized for taking;

(III) In each year of the five-year period, the owner of the relevant captive cervidae facility shall present to the department of fish and wildlife for disease surveillance at least the number of white-tailed deer and moose authorized for taking by the fish and wildlife board under this subdivision (C)(2)(B)(i).

(ii) The process and protocol for a disease surveillance program at the relevant captive cervidae facility.

(C) the owner of the relevant captive cervidae facility may post his or her land according to 10 V.S.A. § 5201 and may restrict access to the facility for hunting; and

(D) no fee shall be charged by the relevant captive cervidae facility for the right to take white-tailed deer or moose during a hunt season established by the fish and wildlife board under this subsection.

(3) No person knowingly or intentionally shall allow wild cervidae at the relevant captive cervidae facility to escape or to be released from the facility.

(4) Failure of the relevant captive cervidae facility to meet the requirements of this section shall be a fish and game violation subject to enforcement under 10 V.S.A. chapter 109.

(d) By September 1, 2011, the owner of a relevant captive cervidae facility shall submit to the department of fish and wildlife an application for a permit for the possession of animals for the purpose of hunting.

(e) On or before January 15, 2012, and annually thereafter, the department of fish and wildlife shall report to the house committee on fish, wildlife and

water resources and the senate committee on natural resources and energy regarding the status of the relevant captive cervidae facility's compliance with:

(1) the requirements of this section; and

(2) the fish and wildlife board's rule governing the importation and possession of animals for taking by hunting.

(f) Prior to filing under 3 V.S.A. § 841 a final proposal of the rules required by subsection (c) of this section, the fish and wildlife board shall submit a copy of the proposed rules to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy. The house committee on fish, wildlife and water resources and the senate committee on natural resources and energy shall review the proposed rules for consistency with legislative intent. The house committee on fish, wildlife and water resources and the senate committee on natural resources shall recommend that the proposed rules be amended or shall recommend that the proposed rules be filed with the secretary of state and the legislative committee on administrative rules under 3 V.S.A. § 841. If the general assembly is not in session when the fish and wildlife board is prepared to file a final proposal of rules, the board may submit the proposed rules to the secretary of the senate, the clerk of the house, and the chairs of the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy.

Sec. 6. 10 V.S.A. §§ 4519–4520a are added to read:

§ 4519. ASSURANCE OF DISCONTINUANCE

(a) As an alternative to judicial proceedings, the commissioner may accept an assurance of discontinuance of any violation of this part. An assurance of discontinuance may include, but need not be limited to:

(1) specific actions to be taken;

(2) abatement or mitigation schedules;

(3) payment of a civil penalty and the costs of investigation;

(4) payment of an amount to be held in escrow pending the outcome of an action or as restitution to aggrieved persons.

(b) An assurance of discontinuance shall be in writing and signed by the respondent and shall specify the statute or regulation alleged to have been violated. An assurance of discontinuance shall be simultaneously filed with the attorney general and the civil division of the superior court of the county in which the alleged violation occurred or the civil division of the superior court of Washington County. An assurance of discontinuance may, by its terms,

become an order of the court. Evidence of a violation of an assurance of discontinuance shall be prima facie proof of the violation.

(c) Any violation of an assurance of discontinuance shall constitute a separate and distinct offense of the underlying statute or rule and shall be subject to an administrative penalty under section 4520 of this title, in addition to any other applicable penalties.

§ 4520. ADMINISTRATIVE PENALTIES

(a) In addition to other penalties provided by law, the commissioner may assess administrative penalties, not to exceed \$1,000.00, for each violation of this part.

(b) In determining the amount of the penalty to be assessed under this section, the commissioner may give consideration to one or more of the following:

(1) the degree of actual and potential impact on fish, game, public safety, or the environment resulting from the violation;

(2) the presence of mitigating or aggravating circumstances;

(3) whether the violator has been warned or found in violation of fish and game law in the past;

(4) the economic benefit gained by the violation;

(5) the deterrent effect of the penalty;

(6) the financial condition of the violator.

(c) Each violation may be a separate and distinct offense and, in the case of a continuing violation, each day's continuance may be deemed to be a separate and distinct offense. In no event shall the maximum amount of the penalty assessed under this section exceed \$25,000.00.

(d) In addition to the administrative penalties authorized by this section, the commissioner may recover the costs of investigation, which shall be credited to a special fund and shall be available to the department to offset these costs.

(e) Any party aggrieved by a final decision of the commissioner under this section may appeal de novo to the civil division of the superior court of the county in which the violation occurred or the civil division of the superior court of Washington County within 30 days of the final decision of the commissioner.

(f) The commissioner may enforce a final administrative penalty by filing a civil collection action in the civil division of the superior court of any county.

(g) The commissioner may, subject to 3 V.S.A. chapter 25, suspend any license or permit issued pursuant to his or her authority under this part for failure to pay a penalty under this section more than 60 days after the penalty was issued.

§ 4520a. NOTICE AND HEARING REQUIREMENTS

(a) The commissioner shall use the following procedures in assessing the penalty under section 4520 of this title: the attorney general or an alleged violator shall be given an opportunity for a hearing after reasonable notice; and the notice shall be served by personal service or by certified mail, return receipt requested. The notice shall include:

(1) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(2) a statement of the matter at issue, including reference to the particular statute allegedly violated and a factual description of the alleged violation;

(3) the amount of the proposed administrative penalty; and

(4) a warning that the decision shall become final and the penalty imposed if no hearing is requested within 15 days of receipt of the notice. The notice shall specify the requirements which shall be met in order to avoid being deemed to have waived the right to a hearing or the manner of payment if the person elects to pay the penalty and waive a hearing.

(b) Any person who receives notification pursuant to this section shall be deemed to have waived the right to a hearing unless, within 15 days of the receipt of the notice, the person requests a hearing in writing. If the person waives the right to a hearing, the commissioner shall issue a final order finding the person in default and imposing the penalty. A copy of the final default order shall be sent to the violator by certified mail, return receipt requested.

(c) When an alleged violator requests a hearing in a timely fashion, the commissioner shall hold the hearing pursuant to 3 V.S.A. chapter 25.

Sec. 7. EFFECTIVE DATES

(a) This section and Secs. 1 (findings), 2 (policy for management of fish and wildlife), 3 (repeal of dormant deer herd management statutes) and 6 (department of fish and wildlife; assurance of discontinuance; administrative penalties) of this act shall take effect on July 1, 2011.

(b) Secs. 4 (repeal of transfer of regulatory authority over captive cervidae facility) and 5 (transition of regulatory authority over captive cervidae facility) of this act shall take effect September 1, 2011, except that Sec. 5(d)

(application for possession of animals for purpose of hunting permit) shall take effect on July 1, 2011.