

Road Rule Legislative Committee Report - December 2013

Working Group Members

John Liccardi (sportsman and chair), Devon Craig (sportsman), Peter Allard (Fish & Wildlife Board member), Justin Stedman (State Game Warden), Jason Batchelder (State Game Warden), Kevin Lawrence (Fish & Wildlife Board member), Kim Royar (Fish & Wildlife Commissioner's designee)

Other participants: Chris Saunders, Hunter Education Coordinator

Legislative Charge (Act 78)

Summary: Reduce the incidence of the illegal taking of game from motor vehicles or public highways

Statutory Language:

Sec. 14. DEPARTMENT OF FISH AND WILDLIFE WORKING GROUP ON ILLEGAL TAKING OF GAME FROM VEHICLES OR PUBLIC HIGHWAY

(a) The Commissioner of Fish and Wildlife shall convene a working group to review and recommend methods for addressing illegal taking of game from motor vehicles or public highways in Vermont. The working group shall consist of the Commissioner or his or her designee and the following members to be appointed by the Commissioner:

- (1) two members of the Fish and Wildlife Board;
- (2) two State Game Wardens, Deputy State Game Wardens, other appropriate law enforcement officers, or a combination thereof; and
- (3) two persons who hold a valid Vermont hunting license.

(b) On or before December 15, 2013, the Commissioner shall report to the House Committee on Fish, Wildlife and Water Resources and the Senate Committee on Natural Resources and Energy with the recommendations of the working group.

(c) The report shall include a summary, based on the number of citations issued and on the number of complaints tabulated by the Department, of the incidence of illegal taking of game from motor vehicles or public highways in Vermont and shall make recommendations on potential measures by which to reduce such incidents. The report shall include recommendations regarding:

- (1) whether and to what extent the State should regulate the distance from the traveled portion of public highways or other roadways at which hunters may take or attempt to take game;
- (2) a prohibition on shooting of a firearm or bow and arrow over or across the traveled portion of a public highway or other roadways;
- (3) increasing enforcement, increasing fines, or both; and
- (4) any other appropriate measures supporting the purpose of the working group.

Background

The working group members met twice (August 7, 2013 and October 30, 2013) to develop recommendations regarding the above mentioned charge. Representatives from partner organizations provided comments and attended the second meeting (The Vermont Federation of Sportsmen's Clubs, Vermont Traditions Coalition, Vt. State Rifle and Pistol Association).

At the first meeting, the department presented the two documents listed below as background information.

- Summary of citations by year (Attachment A)
- Summary of statutes/regulations from other states (Attachment B)

The group struggled with the implications of increased class IV town roads and trails in rural areas and on state land as a result of the so-called ancient roads law, Act 78, which passed in 2006 (see chart below). There was unanimous concern regarding the potential for unintended violations as a result of a hunter unknowingly approaching within 25 feet of a newly designated trail or road, particularly on state-owned property.

Ancient Road Additions by Class & Year

Year	Class 3 TH	Class 4 TH	Legal Trail	# of Municipalities
2006	0.00	11.00	6.75	2
2007	0.00	23.85	136.20	41
2008	0.00	10.63	26.29	19
2009	0.04	11.05	1.75	6
2010	3.82	95.17	78.52	42
2011	0.25	15.08	2.36	8
Total	4.11	166.78 mi.	251.87 mi.	101*

Note: *101 total municipalities submitted changes over the course of the six years, several municipalities submitting changes in multiple years, thus the column does not add up to 118.

Recommendations

(1) *Whether and to what extent the State should regulate the distance from the traveled portion of public highways or other roadways at which hunters may take or attempt to take game;*

Given that the working group believes its charge to be ***to reduce the incidence of the illegal taking of game from motor vehicles or public highways***, the group proposes to return to the original language in statute 4705 (10' restriction) ***except when alighting from a vehicle*** at which point the hunter would have to be ***25 yards*** from the traveled portion of the highway. The committee feels that the proposed language more effectively addresses the concern related to road hunting from a vehicle while also protecting legal hunters on foot in thick cover who might unintentionally approach class IV town roads (See attachment C for proposed language).

(2) *Consider a prohibition on shooting of a firearm or bow and arrow over or across the traveled portion of a public highway or other roadways:*

Again concerns were raised regarding unknowingly shooting over class IV town roads and trails located in remote areas and on state lands. The working group proposes the following language to address these concerns (Attachment C):

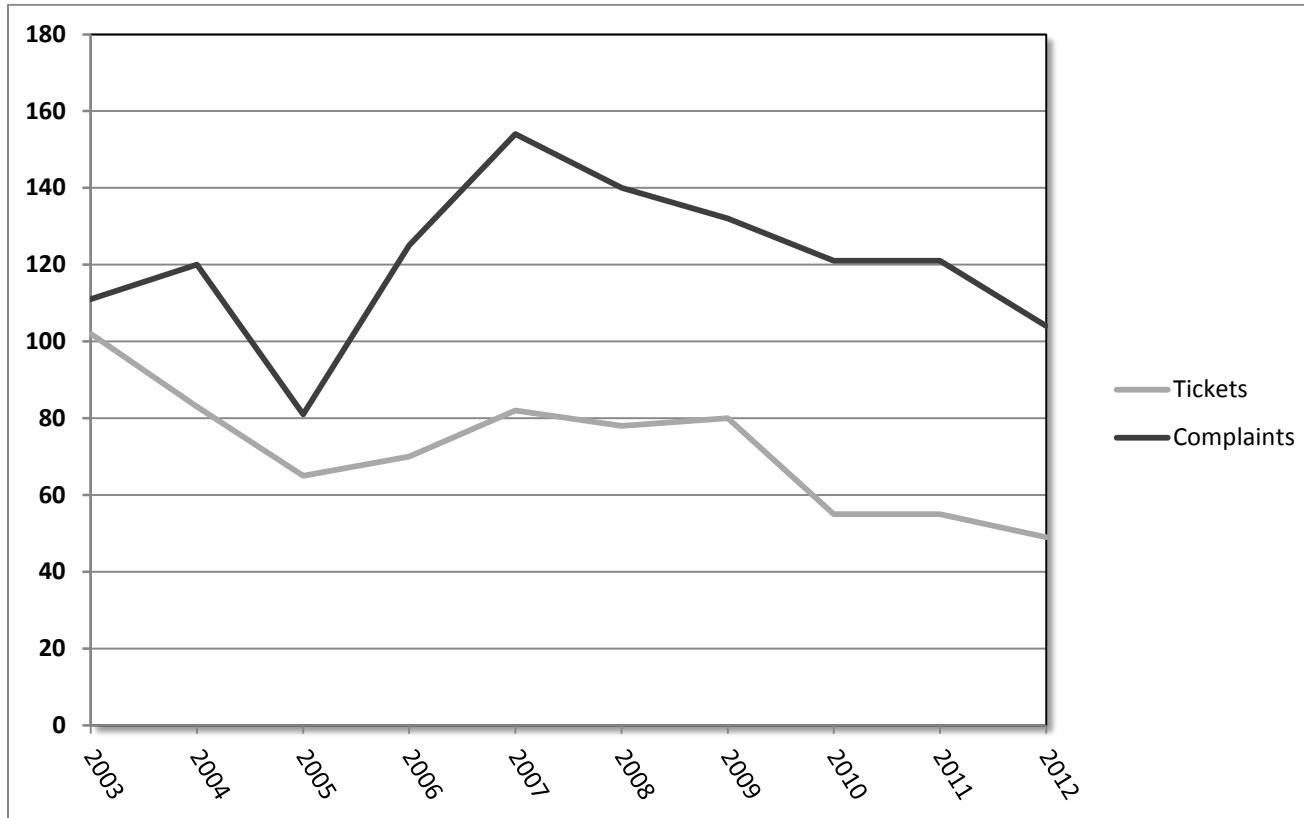
“No person shall take or attempt to take any wild animal by ***knowingly*** shooting a firearm, muzzleloader [addition], bow and arrow, or crossbow over or across the traveled portion of a public highway so as to endanger any other users of said public highway or while said animal is on the public right of way.” This language requires that law enforcement can prove that a person knowingly shot across the road.

(3) *Consider the potential for increasing enforcement, increasing fines, or both:*

The working group recommends no additional statutory penalties. The Department should consider an internal review of penalties.

(4) *Other considerations:* None

Attachment A: Roadway-related Hunting Complaints and Violations



	Complaints	Warnings	Tickets
2003	111	4	102
2004	120	6	83
2005	81	7	65
2006	125	5	70
2007	154	1	82
2008	140	8	78
2009	132	3	80
2010	121	5	55
2011	121	4	55
2012	104	3	49

Attachment B - Regional Laws & Regulations Related to Road Hunting

Maine

- **Shooting within 100 yards of dwelling:** It is unlawful to discharge any firearm, including muzzleloading firearms, or crossbow within 100 yards of a building without location. Building means any residential, commercial, retail, educational, religious or farm structure that is designed to be occupied by people or domesticated animals or is being used to shelter machines or harvested crops.
- **Shooting from or over a public paved way:** A person is guilty of hunting from or over a public paved way if that person shoots at any wild animal or wild bird from any public paved way or within 10 feet of the edge of the pavement of the public paved way or from within the right-of-way of any controlled access highway or discharges any firearm or crossbow over a public paved way (any road treated with bituminous or concrete material).
- **Firearms on school property:** Possession of a firearm or crossbow on public school property or discharging one within 500 feet of school property, except as used in supervised educational programs or by law enforcement officials, is a violation of Title 20-A Section 6552.
- **Loaded firearms in motor vehicles:** It is unlawful to have a loaded firearm or crossbow in or on a motor vehicle (including trailer, ATV, aircraft, snowmobile, or railway car). A loaded clip may be carried in a motor vehicle, but it must not be inserted in a firearm. Persons who hold a Maine concealed firearms permit may carry a loaded pistol or revolver in a motor vehicle. **Firearms may be transported in a motor vehicle without a concealed firearms permit provided they are (1) unloaded and in plain view, or (2) are unloaded and placed in a remote secure area (such as a locked trunk) away from the control of the occupants of the motor vehicle.** For purposes of this law, a muzzleloading firearm is considered to be loaded only if charged with powder, lead and a primed ignition device or mechanism. A crossbow is considered loaded if cocked and armed.

Note: A loaded clip may be carried in a motor vehicle, but it must not be inserted in, or attached to, a firearm; a crossbow may be carried as long it is not cocked and armed; a muzzleloading firearm is considered to be loaded only if charged with powder, lead and a primed ignition device or mechanism.

Massachusetts

- **TRAVEL:** Rifles, shotguns, and muzzleloaders may not be carried on public ways unless the person is lawfully engaged in hunting. When transported in a motor vehicle, rifles, shotguns, and muzzleloaders must be unloaded and in an enclosed case. A large capacity firearm must be carried unloaded and contained within a locked trunk or in a locked case or other secure container.
- **PROHIBITED:** Discharge of any firearm or release of any arrow upon or across any state or hard-surfaced highway, or within 150 feet of any such highway, or possession of a loaded firearm, discharge of a firearm, or hunting on the land of another within 500 feet of any dwelling or building in use, except as authorized by the owner or occupant thereof.
- **PROHIBITED:** Motor vehicles, recreational vehicles (including snowmobiles), and/or aircraft for hunting any bird or mammal.
- **PENALTIES:** License revoked for one year in addition to other penalties; fines of up to \$1,000, restitutions, and /or 1 year in jail. Careless and negligent use of firearms; fines of up to \$500 and /or 6 months imprisonment and loss of license for 5 years.

New Hampshire

- It is illegal to discharge a firearm or shoot with a bow and arrow or crossbow and bolt within 300 feet of a permanently occupied dwelling without permission of the owner or occupant, or from the owner of the land on which the person shooting the firearm, bow and arrow, or crossbow and bolt is situated. A firearm may not be discharged within 300 feet of any commercial, educational or medical building, or outdoor public gathering place.
- Firearms may not be discharged within the compact area of any town or city (any contiguous area containing 6 or more buildings used as part time or permanent dwellings where each is within 300 feet of one of the other buildings, plus a 300 foot wide perimeter around all of the buildings).
- It is unlawful to discharge a firearm, bow and arrow, or crossbow and bolt within 15' of the traveled portion of, or

across any class I through V highway, or from or across the following public highways (including the rights of way): I-93, I-89, I-95, 293, 393, Rte. 202/9 (from Rte. 114 in Henniker to Rte. 31 in Hillsboro), Rte. 16 (from I-95 to Milton/Middleton town line), Rte. 3/F.E. Everett Turnpike (from Mass. line to Rte. 101 Bedford), Rte. 101 (from Bedford town line to Rte. 1 Hampton).

- **PROHIBITED:** Hunt from inside of, or upon, any type of motorized vehicle, including aircraft, motor vehicle, snowmobile or OHRV;
- **PROHIBITED:** Carry a loaded firearm with ammunition in the chamber, clip or magazine, or cocked crossbow, while the firearm or crossbow is in or on (includes leaning on or contact with) any type of motorized vehicle, moving or stationary; a muzzleloader is considered unloaded if the ignition source (i.e.: primer cap or flint or primer powder) is removed from the firearm;

New York

- It is illegal to take or hunt wildlife: while in or on a motor vehicle (except by special permit); with the aid of a vehicle's lights; on or from any public road.
- A person may not transport or possess a shotgun, rifle or crossbow in or on a motor vehicle, including any all terrain vehicle, unless the firearm is unloaded in both chamber and magazine or the crossbow is unloaded or taken down.
- **PROHIBITED:** It is illegal to discharge a firearm, crossbow or bow:
 - So that the load or arrow/bolt passes over any part of a public highway.
 - Within 500 feet of any school, playground, or an occupied factory or church.
 - Within 500 feet of a dwelling, farm building or structure in occupation or use unless you own it, lease it, are an immediate member of the family, an employee, or have the owner's consent.
 - You may hunt waterfowl over water within 500 feet of a dwelling or public structure as long as neither are within 500 feet in the direction you are shooting.

Vermont

- **Hunting from motor vehicle:** It is illegal to take any wild animal by shooting with firearm or bow and arrow from any motor vehicle. Motor vehicles include cars, trucks, snowmobiles, ATVs, motorboats, airplanes and any conveyance or trailer towed by these.
- **Transporting Firearms & Crossbows in Motor Vehicles:** A person shall not carry or possess while in or on a vehicle propelled by mechanical power or drawn by a vehicle propelled by mechanical power within the right of way of a public highway a **rifle** or **shotgun** containing a loaded cartridge or shell in the chamber, mechanism, or in a magazine or clip within a rifle or shotgun, or a **muzzleloading rifle** or **muzzleloading shotgun** that has been charged with powder and projectile and the ignition system of which has been enabled by having an affixed or attached percussion cap, primer, battery, or priming powder. Unless it is uncocked, a person shall not possess or transport a **crossbow** in or on a motor vehicle, motorboat, airplane, snowmobile, ATV, or other motor-propelled craft or any vehicle drawn by a motor-propelled vehicle.
- **Road Hunting:** A person shall not take or attempt to take any wild animal by shooting a firearm, bow and arrow or crossbow while on or within 25 feet of the traveled portion of a public highway. Shooting across a public highway is also prohibited. Violators are subject to a fine of up to \$1,000, with a standard waiver fine set at \$429.00. (The waiver fine is the fine amount placed on a ticket if someone wishes not to contest a charge and avoids a formal court appearance. The waiver fine is established by a panel of judges.) In addition, up to 10 points may be assessed to the license.

The Vermont Statutes Online

Title 10: Conservation and Development

Chapter 113: GAME

Sub-Chapter 001: General Provisions

10 V.S.A. § 4705. Shooting from motor vehicles or aircraft; shooting from or across highway; permit

§ 4705. Shooting from motor vehicles or aircraft; shooting from or across highway; permit

(a) A person shall not take, or attempt to take, a wild animal by shooting from a motor vehicle, motorboat, airplane, snowmobile, or other motor propelled craft or any vehicle drawn by a motor propelled vehicle except as permitted under subsection (e) of this section.

(b) A person shall not carry or possess while in or on a vehicle propelled by mechanical power or drawn by a vehicle propelled by mechanical power within the right of way of a public highway a rifle or shotgun containing a loaded cartridge or shell in the chamber, mechanism, or in a magazine, or clip within a rifle or shotgun, or a muzzle-loading rifle or shotgun that has been charged with powder and projectile and the ignition system of which has been enabled by having an affixed or attached percussion cap, primer, battery, or priming powder, except as permitted under subsections (d) and (e) of this section. A person who possesses a rifle or shotgun in or on a vehicle propelled by mechanical power, or drawn by a vehicle propelled by mechanical power within a right of way of a public highway shall upon demand of an enforcement officer exhibit the firearm for examination to determine compliance with this section.

(c) A person while on or within 25 10 feet of the traveled portion of a public highway shall not take or attempt to take any wild animal by shooting a firearm, a muzzleloader, a bow and arrow, or a crossbow except: after alighting from a motor vehicle that being driven or stopped on or along is located on a traveled portion of a public highway, in which case the person shall be at least doing the shooting has to be 25 yards from the traveled portion of the public highway prior to taking or attempting to take any wild animal by shooting a firearm, a muzzleloader, a bow and arrow, or a crossbow. ~~A~~ No person shall ~~not knowingly take or attempt to take a wild animal by knowingly~~ shooting a firearm, muzzleloader, a bow and arrow, or a crossbow over or across the traveled portion of a public highway so as to endanger any other users of said public highway or while said animal is on the public right of way.

(d) This section shall not restrict the possession or use of a loaded firearm by an enforcement officer in performance of his duty.

(e) Subsection (a) and (c) of this section shall not apply to a licensed hunter who is a paraplegic or is certified by a physician to be unable to pursue game because of permanent severe physical disability, if he obtains a permit as provided in this subsection. The Commissioner on receipt of satisfactory proof of the disability of an applicant may issue a permit under this subsection. This permit shall be attached to the license, and shall remain in effect until the death of the holder, unless the Commissioner has reason to believe the permit is misused. The holder of the permit shall carry it at all times while hunting, and shall produce it on demand for inspection by any game warden or other law enforcement officer authorized to make arrests. The holder of the permit may take game from a vehicle or boat but only if it is stationary and is not within 10' of the traveled portion of a public highway. In no event shall the holder of a permit shoot across the traveled portion of a public highway.

(f) The phrase "public highway," as used in this section, means roads shown on the highway maps of the respective towns, made by the agency of transportation, but does not include foot trails or private roads. (Added 1961, No. 119, § 1, eff. May 9, 1961; amended 1967, No. 279 (Adj. Sess.), § 1, eff. March 12, 1968; 1969, No. 35; 1973, No. 178 (Adj. Sess.), § 2; 1977, No. 103, § 2, eff. May 6, 1977; 1977, No. 143 (Adj. Sess.); 1991, No. 13, § 4; 1997, No. 99 (Adj. Sess.), § 7; 2003, No. 163 (Adj. Sess.), § 15a; 2007, No. 97 (Adj. Sess.), § 3; 2013, No. 78, § 12a.)