

H.5

An act relating to hunting, fishing, and trapping

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

* * * Definition of Bow and Arrow * * *

Sec. 1. 10 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

Words and phrases used in this part, unless otherwise provided, shall be construed to mean as follows:

* * *

(29) Bow in the phrase “bow and arrow”: hand-held bow, including a long bow, recurve bow, or compound bow ~~but does not include a crossbow.~~

* * *

* * * License Agent Fees * * *

Sec. 2. 10 V.S.A. § 4254(f) and (g) are amended to read:

(f) All persons or businesses who wish to serve as agents shall apply on forms provided by the Department. ~~All applicants who become agents, except town clerks or other municipal or State employees who sell licenses as part of their official duties, shall pay an agency origination fee of \$100.00 upon establishment of the agency.~~ Except for the fee collected under subdivision (e)(9) of this section, all license fees collected by an agent are the property of the State of Vermont and shall be promptly paid to the State following the procedures established under subdivision (e)(6) of this section.

~~(g) All operating license agents, including those in their first year of operation, but not including town clerks, other municipal or State employees who sell licenses as part of their official duties, and point of sale agents, shall pay an annual agency operation fee of \$35.00. This fee shall be used for the administration of this section and to offset any losses incurred from sales of licenses, in lieu of individual bonding. [Repealed.]~~

* * * Permanent Licenses; Persons with Disabilities * * *

Sec. 3. 10 V.S.A. § 4255(c) is amended to read:

(c) A permanent or free license may be secured on application to the Department by a person qualifying as follows:

(1) For \$50.00, a Vermont resident aged 65 years of age or older may purchase one or all of the following licenses:

(A) A permanent fishing license.

(B) If the person qualifies for a hunting license, a combination fishing and hunting license, which shall include all big game licenses, except for a moose license.

(C) If the person qualifies for a trapping license, a trapping license.

* * *

(3) A ~~person~~ Vermont resident with paraplegia as defined in subdivision 4001(30) of this title ~~who is a Vermont resident or a permanent, severe,~~ physical mobility disability certified by a physician may receive a free

permanent fishing license or, if the person qualifies for a hunting license, a free combination hunting and fishing license. A person with paraplegia or a person certified by a physician to have permanent, severe, physical mobility disability who is a resident of a state which provides a reciprocal privilege for Vermont residents may receive a free one-year fishing license, or if the person qualifies for a hunting license, a free one-year combination fishing and hunting license.

* * *

* * * Reports * * *

Sec. 4. DEPARTMENT OF FISH AND WILDLIFE REPORT ON

PERMANENT LICENSE FOR PERSONS WITH DISABILITIES

On or before January 15, 2017, the Commissioner 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 any free permanent fishing, hunting, or combination licenses issued to persons with a permanent, severe, physical mobility disability. This report shall include the number of applicants and the number of free permanent licenses issued.

Sec. 5. 10 V.S.A. § 4255(c) is amended to read:

(c) A permanent or free license may be secured on application to the Department by a person qualifying as follows:

* * *

(6) In each year a permanent license holder intends to hunt, trap, or fish, the permanent license holder shall notify the Department that he or she will exercise his or her hunting, trapping, or fishing privileges. Failure to notify the Department as required by this subdivision (c)(6) shall not result in the assessment of points under section 4502 of this title.

Sec. 5a. 10 V.S.A. § 4279 is amended to read:

§ 4279. LIFETIME LICENSES

(a) A resident or nonresident lifetime fishing, hunting, or combination fishing and hunting license may be obtained upon application to the Department.

* * *

(g) In each year a lifetime license holder intends to hunt, trap, or fish, the lifetime license holder shall notify the Department that he or she will exercise his or her hunting, trapping, or fishing privileges. Failure to notify the Department as required by this subsection shall not result in the assessment of points under section 4502 of this title.

* * * Mentored Hunting License * * *

Sec. 6. 10 V.S.A. § 4256(d) is amended to read:

(d) ~~For the purposes of~~ As used in this section, “accompany,” “accompanied,” or “accompanying” means that the mentored hunter is in the direct control and supervision of the licensed hunter and is within 15 feet of the

licensed hunter. While hunting, an individual who holds a valid hunting license under subsection 4254(b) of this title shall accompany only one mentored hunter at a time. ~~The individual accompanying the mentored hunter while hunting shall sign and date the license of the mentored hunter.~~

* * * Migratory Waterfowl Advisory Committee * * *

Sec. 7. 10 V.S.A. § 4277(f) is amended to read:

(f) Advisory committee. There is hereby created a ~~migratory waterfowl advisory committee~~ Migratory Waterfowl Advisory Committee which shall consist of five persons and up to three alternates appointed by and serving at the pleasure of the ~~commissioner of the department of fish and wildlife~~ Commissioner of Fish and Wildlife. The ~~commissioner~~ Commissioner shall designate a chairperson. The ~~committee~~ Committee shall be consulted with and may make recommendations to the ~~commissioner~~ Commissioner in regard to all projects and activities supported with the funds derived from the implementation of this section. The ~~commissioner~~ Commissioner shall make an annual financial and progress report to the ~~committee~~ Committee with regard to all activities authorized by this section.

* * * Endangered and Threatened Species * * *

Sec. 8. 10 V.S.A. § 5403 is amended to read:

§ 5403. PROTECTION OF ENDANGERED AND THREATENED SPECIES

(a) Except as authorized under this chapter, a person shall not take, possess, or transport wildlife or plants that are members of an endangered or threatened species.

(b) The ~~secretary~~ Secretary may, with advice of the ~~endangered species committee~~ Endangered Species Committee, adopt rules for the protection and conservation of endangered and threatened species.

(c) ~~A~~ The Secretary may bring a civil enforcement action against any person who violates subsection (a) of this section ~~with regard to an endangered species shall be fined not more than \$1,000.00 on the first offense. For a subsequent conviction the person shall be fined not less than \$500.00 nor more than \$1,000.00~~ or rules adopted under this chapter in accordance with chapters 201 and 211 of this title.

(d) ~~A person who violates subsection (a) of this section with regard to a threatened species shall be fined not more than \$500.00 on the first offense. For a subsequent conviction the person shall be fined not less than \$250.00 nor more than \$500.00~~ Instead of bringing a civil enforcement action for a violation of this chapter or rules adopted under this chapter, the Secretary may

refer violations of this chapter to the Commissioner of Fish and Wildlife for enforcement.

(e) A person who violates a rule of the ~~secretary~~ Secretary adopted under subsection (b) of this section shall be fined not more than \$500.00.

(f) ~~A~~ Any person who violates subsection (a) of this section by knowingly injuring a member of a threatened or endangered species may be required by the court to pay restitution ~~of no more than \$500.00~~ for:

(1) ~~veterinarian~~ actual costs and related expenses incurred in treating and caring for the injured ~~bird~~ plant or animal to the person incurring these expenses, including the costs of veterinarian services and Agency of Natural Resources staff time; or

(2) reasonable mitigation and restoration costs such as: species restoration plans; habitat protection; and enhancement, transplanting, cultivation, and propagation for plants.

Sec. 9. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

* * *

(27) 10 V.S.A. chapter 123, relating to threatened and endangered species.

(b) The Secretary's administrative enforcement authority established by this chapter shall supplement any authority of the Secretary established by the chapters set forth in subsection (a) of this section to initiate criminal proceedings, or civil proceedings under chapters 47, 56, 59, 123, and 159 of this title.

(c) The Authority established by this chapter shall not be construed as negating any constitutional, common law, or statutory rights of persons.

* * * Aquatic Nuisance Enforcement * * *

Sec. 10. 10 V.S.A. § 1454(c) is amended to read:

(c) A violation of this section may be brought by any law enforcement officer, as that term is defined in 23 V.S.A. § ~~4(11)~~ 3302(2), in the Environmental Division of the Superior Court. When a violation is brought by an enforcement officer other than an environmental enforcement officer employed by the Agency of Natural Resources, the enforcement officer shall submit to the Secretary a copy of the citation for purposes of compliance with the public participation requirements of section 8020 of this title.

Sec. 11. 23 V.S.A. § 3317(b) is amended to read:

(b) A person who violates a requirement under 10 V.S.A. § ~~1266~~ 1454 shall be subject to enforcement under 10 V.S.A. chapter 201, provided that the

person shall be assessed a penalty of not more than \$1,000.00 for each violation. A person who violates a rule promulgated adopted under 10 V.S.A. § 1424 or shall be subject to enforcement under 10 V.S.A. chapter 201, provided that the person shall be assessed a penalty of not more than \$300.00 for each violation. A person who violates any of the following sections of this title shall be subject to a penalty of not more than \$300.00 for each violation:

§ 3306(e) marine toilet

§ 3312a operation of personal watercraft

Sec. 12. 23 V.S.A. § 3318(c) is amended to read:

(c) The provisions of this subchapter and the rules adopted pursuant to this subchapter shall be enforced by law enforcement officers as defined in section 3302 of this title in accordance with the provisions of 12 V.S.A. chapter 193; ~~and they.~~ Law enforcement officers as defined in section 3302 of this title may also enforce the provisions of 10 V.S.A. § 1266 1454 and the rules adopted pursuant to 10 V.S.A. § 1424 in accordance with the requirements of 10 V.S.A. chapter 50. With respect to the provisions of 10 V.S.A. § 1266 and the rules adopted pursuant to 10 V.S.A. § 1424, whenever a penalty for a violation of such a rule is not otherwise established, three Superior judges appointed by the Court Administrator shall establish a schedule, within the limits prescribed by law, of the penalty to be imposed. Any law enforcement officer who issues a

~~complaint shall advise the defendant of the schedule of penalties and show the defendant a copy of the schedule.~~

* * * Repeal of Agency of Agriculture, Food and Markets Authority Over
Domestic Fur-Bearing Animals * * *

Sec. 13. REPEAL OF AGENCY OF AGRICULTURE, FOOD AND

MARKETS REGULATION OF FUR-BEARING ANIMALS

6 V.S.A. chapter 173 (Agency of Agriculture, Food and Markets regulation
of domestic fur-bearing animals) is repealed.

* * * Moose Permits for Veterans * * *

Sec. 14. 10 V.S.A. § 4254 is amended to read:

§ 4254. FISHING AND HUNTING LICENSES; ELIGIBILITY, DESIGN,
DISTRIBUTION, SALE, AND ISSUE

* * *

(i)(1) If the Board establishes a moose hunting season, up to five moose permits shall be set aside to be auctioned. The moose permits set aside for auction shall be in addition to the number of annual moose permits authorized by the Board. The Board shall adopt rules necessary for the Department to establish, implement, and run the auction process. The Commissioner annually may establish a minimum dollar amount of not less than \$1,500.00 for any winning bid for a moose permit auctioned under this subdivision. Proceeds from the auction shall be deposited in the Fish and Wildlife Fund and used for

conservation education programs run by the Department. Successful bidders must have a Vermont hunting or combination license in order to purchase a moose permit.

(2) If the Board establishes a moose hunting season, there shall be established a program to set aside five moose permits for Vermont residents who have served on active duty in any branch of the U.S. Armed Forces of the United States and ~~who have been awarded or are eligible to receive a campaign ribbon for Operation Iraqi Freedom or Operation Enduring Freedom~~ provided that he or she has not received a dishonorable discharge. The Department of Fish and Wildlife shall adopt a procedure to implement the set-aside program for veterans ~~who have been awarded or are eligible to receive a campaign ribbon for Operation Iraqi Freedom or Operation Enduring Freedom~~, including a method to award applicants preference points and a method by which veterans who applied for but failed to receive a permit in one hunting season are awarded priority in the subsequent moose hunting season. The procedure adopted under this subdivision shall be consistent with the preference system for the permit auction authorized under subdivision (1) of this subsection. Veterans awarded a moose permit under this subsection must possess a valid Vermont hunting or combination license in order to purchase a moose permit. The Department of Fish and Wildlife shall coordinate with the ~~Department of~~

~~Veterans Affairs~~ Office of Veterans Affairs to provide notice to eligible veterans of the moose permits set-aside under this subsection.

* * * Forest Fragmentation Report * * *

Sec. 14a. RECOMMENDATIONS FOR IMPLEMENTATION OF
VERMONT FOREST FRAGMENTATION REPORT

On or before January 15, 2016, the Commissioner of Forests, Parks and Recreation shall report to the House and Senate Committees on Natural Resources and Energy and the House Committee on Fish, Wildlife and Water Resources with recommendations for implementing the policy options to promote forest integrity contained within the Department of Forests, Parks and Recreation's 2015 Vermont Forest Fragmentation Report. The report shall include proposed legislative changes to implement the recommendations of the Commissioner of Forests, Parks and Recreation. Prior to submitting the report required by this section, the Commissioner of Forests, Parks and Recreation shall consult with interested stakeholders.

* * * Gun Suppressors * * *

Sec. 15. 13 V.S.A. § 4010 is amended to read:

§ 4010. ~~GUN SILENCERS~~ SUPPRESSORS

~~A person who manufactures, sells, uses, or possesses with intent to sell or use an appliance known as or used for a gun silencer shall be fined \$25.00 for~~

~~each offense. The provisions of this section shall not prevent the use or possession of gun silencers by:~~

~~(1) a Level III certified law enforcement officer or Department of Fish and Wildlife employee in connection with his or her duties and responsibilities and in accordance with the policies and procedures of that officer's or employee's agency or department; or~~

~~(2) the Vermont National Guard in connection with its duties and responsibilities.~~

(a) As used in this section:

(1) "Gun suppressor" means any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a gun suppressor, and any part intended only for use in such assembly or fabrication.

(2) "Sport shooting range" shall have the same meaning as used in 10 V.S.A. § 5227(a).

(b) A person shall not manufacture, make, or import a gun suppressor, except for:

(1) a licensed manufacturer, as defined in 18 U.S.C. § 921, who is registered as a manufacturer pursuant to 26 U.S.C. § 5802;

(2) a licensed importer, as defined in 18 U.S.C. § 921, who is registered as an importer pursuant to 26 U.S.C. § 5802; or

(3) a person who makes a gun suppressor in compliance with the requirements of 26 U.S.C. § 5822.

(c) A person shall not use a gun suppressor in the State, except for use by:

(1) a Level III certified law enforcement officer or Department of Fish and Wildlife employee in connection with his or her duties and responsibilities and in accordance with the policies and procedures of that officer's or employee's agency or department;

(2) the Vermont National Guard in connection with its duties and responsibilities;

(3) a licensed manufacturer or a licensed importer, as defined in 18 U.S.C. § 921, who is also registered as a manufacturer or an importer pursuant to 26 U.S.C. § 5802, who in the ordinary course of his or her business as a manufacturer or as an importer tests the operation of the gun suppressor; or

(4) a person lawfully using a sport shooting range.

(d)(1) A person who violates subsection (b) of this section shall be fined not less than \$500.00 for each offense.

(2) A person who violates subsection (c) of this section shall be fined \$50.00 for each offense.

Sec. 16. 10 V.S.A. § 4704 is amended to read:

§ 4704. USE OF MACHINE GUNS ~~AND~~, AUTOLOADING RIFLES, AND
GUN SUPPRESSORS

(a) A person engaged in hunting for wild animals shall not use, carry, or have in his or her possession:

(1) a machine gun of any kind or description ~~or~~;

(2) an autoloading rifle with a magazine capacity of over six cartridges, except a .22 caliber rifle using rim fire cartridges; or

(3) a gun suppressor.

(b) As used in this section, “gun suppressor” means any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a gun suppressor, and any part intended only for use in such assembly or fabrication.

Sec. 17. 10 V.S.A. § 4502 is amended to read:

§ 4502. UNIFORM POINT SYSTEM; REVOCATION OF LICENSE

(a) A uniform point system ~~which~~ that assigns points to those convicted of a violation of a provision of this part is established. The conviction report from the ~~court~~ Court shall be prima facie evidence of the points assessed. In addition to other penalties assessed for violation of fish and wildlife statutes, the Commissioner shall suspend licenses issued under this part which are held

by a person who has accumulated ten or more points in accordance with the provisions of subsection (c) of this section.

(b) A person violating provisions of this part shall receive points for convictions in accordance with the following schedule (all sections are in Title 10 of Vermont Statutes Annotated):

* * *

(2) Ten points shall be assessed for:

* * *

(G) § 4704. Use of machine guns ~~and~~, autoloading rifles, and gun suppressors

* * *

Sec. 18. 13 V.S.A. § 4010 is amended to read:

§ 4010. GUN SUPPRESSORS

(a) As used in this section:

(1) ~~“Gun~~ “gun suppressor” means any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a gun suppressor, and any part intended only for use in such assembly or fabrication.

(2) ~~“Sport shooting range” shall have the same meaning as used in 10 V.S.A. § 5227(a).~~

(b) A person shall not manufacture, make, or import a gun suppressor, except for:

(1) a licensed manufacturer, as defined in 18 U.S.C. § 921, who is registered as a manufacturer pursuant to 26 U.S.C. § 5802;

(2) a licensed importer, as defined in 18 U.S.C. § 921, who is registered as an importer pursuant to 26 U.S.C. § 5802; or

(3) a person who makes a gun suppressor in compliance with the requirements of 26 U.S.C. § 5822.

(c) A person shall not use a gun suppressor in the State, except for use by:

(1) a Level III certified law enforcement officer or Department of Fish and Wildlife employee in connection with his or her duties and responsibilities and in accordance with the policies and procedures of that officer's or employee's agency or department;

(2) the Vermont National Guard in connection with its duties and responsibilities; or

(3) a licensed manufacturer or a licensed importer, as defined in 18 U.S.C. § 921, who is also registered as a manufacturer or an importer pursuant to 26 U.S.C. § 5802, who in the ordinary course of his or her business as a manufacturer or as an importer tests the operation of the gun suppressor; ~~or~~

~~(4) a person lawfully using a sport shooting range.~~

~~(d)(4)~~ A person who violates subsection (b) of this section shall be fined not less than \$500.00 for each offense.

~~(2) A person who violates subsection (c) of this section shall be fined \$50.00 for each offense.~~

* * * Effective Dates * * *

Sec. 19. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Secs. 3 (permanent license for persons with disability), 4 (report on permanent license for persons with disability), 6 (mentored hunting license), and 14 (moose permits for veterans) shall take effect on January 1, 2016.

(2) Secs. 15, 16, and 17 (gun suppressors) shall take effect on July 2, 2015.

(3) Sec. 18 (repeal of authorized use of gun suppressor) shall take effect July 1, 2017.